

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 302 of 2026**

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RABARI BHAGWATIBEN D/O ISHWARBHAI AND W/O KANUBHAI
AJMALBHAI & ANR.

Versus

KANUBHAI AJMALBHAI DESAI & ANR.

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Appearance:

MR SP MAJMUDAR(3456) for the Applicant(s) No. 1,2

MR VARUN H MODASIA(13395) for the Applicant(s) No. 1,2

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CORAM: HONOURABLE MR. JUSTICE MAULIK J. SHELAT

Date : 08/06/2026

ORAL ORDER

1. Heard Mr. S. P. Majmudar, learned Advocate with Mr. Varun H. Modasia, learned Advocate for the petitioners.
2. Mr. Majmudar, learned Advocate for the petitioners, would submit that the Trial Court has committed a gross error, in fact, a jurisdictional error, by not entertaining the impugned application of the petitioner filed under Order 7 Rule 11 (a) and (d) of the Code of Civil Procedure, 1908. It is submitted that as per the plain reading of the plaint, more particularly para-13 of the plaint, even according to the plaintiff also, the

cause of action first accrued in the year 2011 and 2012, respectively. It is further submitted that as per Article 58 of the Indian Limitation Act, 1963 (hereinafter referred to as the “Act, 1963”), to seek a declaration as sought in the plaint, within 3 years from the date of first accrual of cause of action, the plaintiff was supposed to file the suit, which is undoubtedly filed beyond a period of 3 years. It is further submitted that the petitioner No. 1 has purchased the suit properties from her personal account and the bank/cheque reference given in the sale deed would clearly show that it was issued from the personal bank account of petitioner No. 1.

- 2.1. To buttress his arguments, Mr. Majmudar, learned Advocate, would rely upon the following decision:

(i). Khatri Hotels Private Limited V/s. Union of India, reported in 2011 (9) SCC 126.

3. Having heard Mr. Majmudar, learned Advocate for the petitioners and upon perusal of the plaint, more particularly para-13 of the plaint, it would clearly suggest that according to the plaintiff, the cause of action arose in the year 2011-12 as the suit properties were purchased by petitioner No. 1, who

happens to be his wife. Whereas, the suit appears to have been filed in the year 2024. The respondent-plaintiff is not questioning the sale deed but sought a declaration that the suit properties were purchased from his funds and to that extent, he sought a declaration. As per Article 58 of the Act, 1963, such suit ought to have been filed within 3 years from the date when the cause of action first accrued in favour of the plaintiff. *Prima facie*, from the bare reading of the plaint, the suit is time-barred as it is filed beyond the period of 3 years.

4. Furthermore, upon perusal of the sale deed and upon verification of the sale consideration paid through cheque by petitioner No. 1 vis-a-vis the statement of the bank account, *prima facie*, it appears that the cheques were issued from the personal bank account of the petitioner No. 1.
5. In view of the aforesaid, the matter requires consideration. Issue Rule, returnable on 12.10.2026.
6. Ad-interim relief is granted in terms of para-16(B) of the petition.

NILESH

(MAULIK J. SHELAT, J)