

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CIVIL REVISION APPLICATION NO. 118 of 2017**

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PATEL KALIDAS SOMABHAI....Applicant(s)

Versus

QURESHI RAKHBHAI IBRAHIMMIYA & 1....Opponent(s)

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Appearance:

MR RAJESH K SHAH, ADVOCATE for the Applicant(s) No. 1 - 1.5

MR EKRAMA QURESHI, ADVOCATE for MR HASHIM QURESHI,
ADVOCATE for the Opponent(s) No. 1 - 2

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CORAM: HONOURABLE MR.JUSTICE A.J. SHASTRI

Date : 23/01/2018

ORAL ORDER

Heard learned advocate Mr. Rajesh K. Shah appearing for the applicants.

Learned advocate Mr. Shah has drawn attention to the documents including which is under challenge that is the document dated 02.01.1998 (internal page 18), in which plaintiff no. 2 is undisputedly witness to the said document. In addition thereto, this registered sale deed has been mutated in the revenue record after complying the procedure prescribed under the Bombay Land Revenue Code on 03.01.1998 and with respect to this very subject matter of land, even the succession entry has also been made on 15.06.2004. Despite that fact, it is the case of the applicants that by suppressing this by making smart averments in the plaint, the suit has been brought on 01.07.2013 which is beyond the period of limitation and

considering this fact, learned advocate Mr. Shah has relied upon the decision of this Court in the case of **Becharbhai Zaverbhai Patel & Ors. v. Jashbhai Shivabhai Patel & Ors.**, reported in **2013(1) GLR 398** and contended that the learned trial Judge has erroneously passed the order rejecting the application under Order 7 Rule 11 (d) of the Code of Civil Procedure.

In response thereto, learned advocate Mr. Ekrama Qureshi appearing for the opponents has submitted that a bare reading of the plaint would indicate that the issue of limitation deserves to be adjudicated upon and is a mixed questions of law and fact.

Considering the aforesaid submissions made by the learned advocates to the proceedings, the matter requires consideration. Hence, **Rule** returnable on **15.03.2018**. Learned advocate Mr. Ekrama Qureshi wavier service of rule on behalf of the opponents.

Interim relief in terms of para 9(c) is granted till then.

(A.J. SHASTRI, J.)

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