

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 294 of 2023****With****CIVIL APPLICATION (FOR STAY) NO. 2 of 2023****In R/CIVIL REVISION APPLICATION NO. 294 of 2023**

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RAJESH GORDHANBHAI PATEL**Versus****NUTANBHAI KARSANBHAI DESAI**

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Appearance:**NILESH P UDERNANI(9050) for the Applicant(s) No. 1,2****NIMIT Y SHUKLA(8338) for the Applicant(s) No. 1,2****for the Opponent(s) No. 1**

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CORAM:HONOURABLE MS. JUSTICE SANGEETA K. VISHEN**Date : 24/07/2023****ORAL ORDER****Order in Civil Revision Application:**

Learned advocate for the petitioner, has tendered a draft amendment. Amendment is allowed in terms of the draft. Same shall be carried out forthwith.

2. Mr Nimit Y. Shukla, learned advocate with Mr Nilesh P. Udernani, learned advocate for the applicants submitted that the agreement to sell was executed on 17.02.2009 between the plaintiff and the father of the defendant. The father of the defendant passed away in the year 2011. As per the averments made in the plaint, it was the case of the plaintiff that the father, has denied execution of the registered sale deed in furtherance of the agreement to sell.

3. It is submitted that when it was the case of the plaintiff itself that the father, was avoiding execution of the sale deed, and father having passed away in the year 2011 which fact, is clear from the

document, namely, village form no.6 by which, entry no.12307 was posted on 23.07.2014, recording the aspect of death of the father, the suit, should have been brought within a period of three years; however having failed to do so, the suit, is clearly barred by law of limitation. The learned Judge, except recording the judgments and the principle, has not given any reason, discussing the said averments and the entries in the revenue record, though the entries, were very much forming part of the documents together with the plaint.

4. Considered the submissions. Issue notice to the respondent, returnable on 04.09.2023.

Order in Civil Application:

Heard Mr Nimit Y. Shukla, learned advocate with Mr Nilesh P. Udernani, learned advocate for the applicants.

2. Issue notice to the respondent, returnable on 04.09.2023.

3. Till the next date of hearing, ad-interim relief, is granted in terms of paragraph 3(B).

4. Direct service is permitted.

BINOY B PILLAI

(SANGEETA K. VISHEN,J)