

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 255 of 2016****With****CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2022****In R/FIRST APPEAL NO. 255 of 2016**

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**RAMILABEN W/O MAHENDARAKUMAR BHAILALBHAI AND D/O
DHANJIBHAI GOVINDBHAI PARMAR**

Versus

MAHENDARAKUMAR BHAILALBHAI PARMAR

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Appearance:**MR PARESH M DARJI(3700) for the Appellant(s) No. 1****MR ASHISH B DESAI(5163) for the Defendant(s) No. 1**

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CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI

and**HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 20/10/2022****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)**

1. Report of *Amicus Curiae* is before us, which we would like to place on record with appreciation. The conclusion drawn by both of them, learned advocate, Mr.Tirth Bhatt and learned advocate, Mr.Rajiv Rajpurohit are as follow:

“14. Accordingly, on account of the non-cooperation of the brothers of the appellant and their consequent non-

appearance on 17.10.2022 and 18.10.2022, the undersigned are of the opinion that there appear to be no reasons to believe that they are interested in any of the four alternatives proposed on 13.10.2022.

15. In so far as the claim of the appellant for partition of the property is concerned, the same was communicated to the brothers on 17.10.2022. However, no fruitful response has been received from the brothers except the oral agreement by one of the brothers, Ratilal.

16. Additionally, on account of the appellant pressing her claim for partition on 17.10.2022, due to paucity of time, no formal notice of mediation could be served to the brothers. The brothers have sought for time after Diwali albeit without any concrete proposal or expression of willingness. Accordingly, another round of mediation, after service of a formal notice could be attempted.

17. The informal enquiry (without verification) undertaken by the undersigned for the costs of Vill:Chetarsumba reveals a requirement of INR 10-15 Lakh for construction of a new house/purchase of an existing one and INR 6,000-8,000 per month for rent. The undersigned have been given to understand that the availability of such places/plots on the market is not a major issue and could take upto 3 months for finalization.”

2. Considering the fact that there will be a need for the lady to move to a rented premise, there shall be a requirement of the amount of Rs.6,000/- to Rs.8,000/- per month and the process of getting the share of hers from the coparcenary property by way of a partition would be needing the consorted efforts. We would request both the learned advocates to continue to act as *Amicus Curiae* and conclude this process.

3. Before the Gujarat State Legal Service Authorities, the parties (family members/siblings) concerned shall remain present. We shall also request the Chairperson, District Legal Service Authority, Nadiad to intervene if need be so. Full time Secretary to ensure the

support to the *Amicus Curiae* and let the attempt be made for the settlement at the pre-litigation stage.

4. We also have been ensured by the learned advocate, Mr.Desai so far as the possibility of the husband paying the rent for the rented premise is concerned, he will take necessary instructions in that regard. Therefore, the matter to be now posted on 24.11.2022. In the meantime, the following aspects shall be taken care of:

(I) A meeting shall be conducted after issuing the notice to all parties concerned before the Gujarat State Legal Services Authority. We would request the Member Secretary to also

intervene here. If need be so, the Full time Secretary, District Legal Service Authority, Nadiad can be called for this purpose and this be worked out.

(II) As far as possible, this partition can be worked out at pre-litigation stage.

(III) Attempt shall be on for seeking the rented premise for the lady, who is presently going from one house to another every month. Let the detail of amount of rent be also placed before this Court for necessary direction.

5. If, amicably the settlement is not worked out and there is a requirement for going for the suit of partition, let that

also be supported by the District Legal Service Authority, Nadiad or the Legal Service Authority and hand-holding done by the *Amicus Curiae*.

6. Considering the destitute condition of the lady, we feel that till these attempts of settlement are completed, the matter would require a constant monitoring. Therefore, at the request of the learned advocates, the matter is to be treated as part heard.

7. The matter is adjourned to 24.11.2022.

(SONIA GOKANI, J)

(NISHA M. THAKORE, J)

M.M.MIRZA