

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 277 of 2016**

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DIWALIBEN WD/O NATWARBHAI VIRABHAI LEUVA & 5....Appellant(s)

Versus

MAHENDRABHAI AMABALAL PARMER & 2....Defendant(s)

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Appearance:

MR.HIREN M MODI, ADVOCATE for the Appellant(s) No. 1 - 6

DS AFF.NOT FILED (N) for the Defendant(s) No. 2

HL PATEL ADVOCATES, ADVOCATE for the Defendant(s) No. 2

MR PALAK H THAKKAR, ADVOCATE for the Defendant(s) No. 3

NOTICE SERVED for the Defendant(s) No. 1 , 3

NOTICE UNSERVED for the Defendant(s) No. 2

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CORAM: HONOURABLE MR.JUSTICE R.P.DHOLARIA

Date : 19/12/2016

ORAL ORDER

Heard Mr. Hiren Modi, learned advocate for the appellants and Mr.Darshan Dave, learned advocate for HL Patel Advocates for respondent no.2.

Taking into consideration rival submissions made, it appears that identity of respondent no.2-Shankarbhai Motibhai Patel is involved in the present appeal.

Mr. Darshan Dave, learned advocate states that respondent no.2 has been wrongly served with the notice and he is not involved in the accident in question. He is residing at Ghatlodia in Ahmedabad and the actual respondent no.2-

having the same name is resident of village Detroj, Viramgam. Therefore, he is wrongly served with the notice in the matter.

In view of the above, the person whom Mr. Darshan Dave, learned advocate represents, is at present, directed to be ignored and his presence is no longer required until contrary is found out at later stage.

However, it is made clear that since there is serious question as regards to identity of respondent no.2 is involved, let Mr. Modi, learned advocate for the appellant ascertain and get the correct position. For carrying out the aforesaid exercise, two months time is given, failing which, the appeal shall stand dismissed for want of prosecution.

S. O. to 15/02/2017.

(R.P.DHOLARIA,J.)

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