

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/FIRST APPEAL NO. 3170 of 2024**

**With**

**CIVIL APPLICATION (FOR STAY) NO. 1 of 2024**

**In**

**R/FIRST APPEAL NO. 3170 of 2024**

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MILAN CORPORATION & ORS.

Versus

LHS OF DECD. ADIBEN MANSUKHBHAI & ORS.

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Appearance:

MR VISHAL C MEHTA(6152) for the Appellant Nos. 1,1.1,1.2,1.3,2, 3, 3.1, 3.2, 3.3,3.4,4,5

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**CORAM: HONOURABLE MS. JUSTICE NISHA M. THAKORE**

**Date : 20/12/2024**

**ORAL ORDER**

1. Heard Mr. Vishal C. Mehta, learned advocate for the appellants - original plaintiffs.

2. Learned advocate has placed on record certified copies of Form F., Zoning Certificate and Part Plan issued by Ahmedabad Municipal Corporation. The copy of the notice dated 10<sup>th</sup> November, 2024 issued under Rule-17 of the Town Planning Rules upon the respondent no.1 to 13 has also been placed on record to indicate that the land in question is of the ownership of the respondent nos.1 to 13.

3. Learned advocate had also relied upon the order dated 27<sup>th</sup> April, 2023 passed below Exh.347 on a purshis jointly submitted by the original plaintiffs and original defendant

nos.1 to 13 based on which the learned Judge has passed an order below Exh.1 recording the amicable settlement in terms of the compromise purshis produced on record at Exh.347. By the order dated 27<sup>th</sup> April, 2023 passed below Exh.1 the learned Judge has disposed of the suit against the defendant nos.1 to 13 in terms of the compromise purshis thereby directing to draw the decree in terms of the compromise purshis produced at Exh.347.

4. By referring to the aforesaid order, learned advocate has invited attention of this Court to the impugned judgment and decree dated 29<sup>th</sup> April, 2024 passed by the learned Judge dismissing the suit of the plaintiffs by further clarifying that no separate decree is required to be drawn relating to the compromise recorded earlier below Exh.347. Learned advocate has further submitted that once the compromise purshis was recorded and the learned Judge by order dated 29<sup>th</sup> April, 2024 had directed to draw decree, in absence of any recall of the said order, the learned Judge while passing the impugned judgment and order could not have modified and refused to draw the decree in terms of the compromise purshis produced on record at Exh.347. It is further submitted that the only fact, which has weighed with the learned Judge while rejecting the prayer of the plaintiffs for decree in terms of Exh.347 was on erroneous finding that the land in question is reserved for housing purpose and it falls under the Land Ceiling Act. According to the learned advocate, the aforesaid finding recorded by the learned Judge is without any material on record. However, to clarify the aspect of ownership, learned advocate has placed on record

the Form F., which clearly indicates that the land in question is of the ownership of the defendant nos.1 to 13.

5. Considering the aforesaid submissions, let the **Notice and Notice as to interim relief** be issued upon the respondent nos.1 to 13 and 16 returnable on **27<sup>th</sup> January, 2025**.

6. Learned advocate for the appellant has submitted that the appeal is restricted only to the relief sought for against the original defendant nos.1 to 13 and does not press the present appeal qua other relief sought for in the original suit against the rest of the respondents.

**AMAR RATHOD...**

**(NISHA M. THAKORE, J.)**