

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2238 of 2012

**With
CIVIL APPLICATION (FOR MODIFICATION OF ORDER) NO. 1 of 2017
In R/FIRST APPEAL NO. 2238 of 2012**

**With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2020
In R/FIRST APPEAL NO. 2238 of 2012**

**With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2021
In R/FIRST APPEAL NO. 2238 of 2012**

**With
CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 1 of 2022
In R/FIRST APPEAL NO. 2238 of 2012**

**With
CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 1 of 2023
In R/FIRST APPEAL NO. 2238 of 2012**

**With
CIVIL APPLICATION NO. 2 of 2013
In R/FIRST APPEAL NO. 2238 of 2012**

**With
R/FIRST APPEAL NO. 2239 of 2012**

**With
CIVIL APPLICATION (FOR MODIFICATION OF ORDER) NO. 1 of 2017
In R/FIRST APPEAL NO. 2239 of 2012**

**With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2021
In R/FIRST APPEAL NO. 2239 of 2012**

**With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2020
In R/FIRST APPEAL NO. 2239 of 2012**

**With
CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 1 of 2022
In R/FIRST APPEAL NO. 2239 of 2012**

**With
CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 1 of 2023
In R/FIRST APPEAL NO. 2239 of 2012**

**With
R/LETTERS PATENT APPEAL NO. 2108 of 2009**

**In
R/SPECIAL CIVIL APPLICATION NO. 10235 of 1996**

**With
CIVIL APPLICATION (FOR FIXING DATE OF HEARING) NO. 1 of 2021
In R/LETTERS PATENT APPEAL NO. 2108 of 2009**

In
R/SPECIAL CIVIL APPLICATION NO. 10235 of 1996
With
R/LETTERS PATENT APPEAL NO. 2111 of 2009
In
R/SPECIAL CIVIL APPLICATION NO. 13065 of 1994
With
CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2018
In R/LETTERS PATENT APPEAL NO. 2111 of 2009
In
R/SPECIAL CIVIL APPLICATION NO. 13065 of 1994
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2019
In R/LETTERS PATENT APPEAL NO. 2111 of 2009
In
R/SPECIAL CIVIL APPLICATION NO. 13065 of 1994
With
CIVIL APPLICATION (FOR DIRECTION) NO. 2 of 2018
In R/LETTERS PATENT APPEAL NO. 2111 of 2009
In
R/SPECIAL CIVIL APPLICATION NO. 13065 of 1994
With
R/LETTERS PATENT APPEAL NO. 2004 of 2009
In
R/SPECIAL CIVIL APPLICATION NO. 5174 of 1996
With
CIVIL APPLICATION (FIXING DATE OF EARLY HEARING) NO. 1 of 2021
In R/LETTERS PATENT APPEAL NO. 2004 of 2009
In
R/SPECIAL CIVIL APPLICATION NO. 5174 of 1996
With
R/SPECIAL CIVIL APPLICATION NO. 11541 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 11916 of 2018
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2021
In R/SPECIAL CIVIL APPLICATION NO. 11916 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 12099 of 2017
With
CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2022
In R/SPECIAL CIVIL APPLICATION NO. 12099 of 2017

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NAKULAN S PANIKER

Versus

KANTILAL AMBALAL PATEL SINCE DECEASED THROUGH HIS LEGAL
HEIRS & 4 other(s)

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Appearance:

MR TATTVAM K PATEL(5455) for the Appellant(s) No. 1
ADITYA A GUPTA(7875) for the Defendant(s) No. 1.2
MR ASHISH B DESAI(5163) for the Defendant(s) No. 1,2
MR DHAVAL D VYAS(3225) for the Defendant(s) No. 1.1,1.3
MR HIMANSHU C DESAI(6832) for the Defendant(s) No. 1.1,1.2
MR PINAKIN B RAVAL(3468) for the Defendant(s) No. 1.4
MR PRUTHVIRAJ SINH D PARMAR(9934) for the Defendant(s) No. 5
MR SHIVANG J SHUKLA(2515) for the Defendant(s) No. 4
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CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 23/01/2024

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE BIREN VAISHNAV)

1. Challenge in these first appeals is to the judgement and decree dated 04.07.2012 passed in Special Civil Suit No. 186 of 2010 by the learned Additional Senior Civil Judge, Rajkot. The original plaintiffs in the suit by the judgement and decree succeeded inasmuch as it was declared by the trial court that the plaintiffs are entitled to cancel the registered agreements dated 02.08.2010 with respect to the suit properties. Reading of the operative portion of the decree would indicate that the defendants who are the present appellants were ordered to be restrained by way of permanent injunction from

either selling, transferring or alienating the suit land by misusing the agreement dated 02.08.2010 as well as the Power of Attorney etc. The defendants in the suit therefore have filed the present appeals.

2. When the appeals were taken up for hearing, the plaintiffs have prayed that they be permitted to withdraw the suit. The appellants through their learned Senior Advocates have agreed to the fact that the suits be permitted to be withdrawn and there be no need to entertain the appeals on merits.

3. A Civil Application for impleadment has been filed by one Amarsinh Manishchandrasinh Jadeja. A leave to appeal has also been registered. Mr. Dhaval Dave, learned Senior Advocate appearing for Mr. Hemang Shah, learned advocate has appeared for the applicants in the joining application has contested the withdrawal of the suit by the plaintiffs and consequentially the stand of the appellants that the plaintiffs be permitted to withdraw

the suit on the ground that Civil Suit No. 53 of 2002 is pending adjudication with regard to possession of the same lands in question. Parties have therefore vehemently contested the withdrawal of the suit over a period of time. In light of this when suggested, the original plaintiffs' Counsels have agreed to file an application setting out reasons as to why they want to withdraw the suit and that the appeals therefore need not be heard. To such applications being filed, it shall be open for the parties including the impending civil applicant who wishes to be joined as a party in the first appeals to file objections. It goes without saying that the contesting applicant who wishes to be joined as party to the appeal is permitted to contest the withdrawal application subject to the rights and contentions of the respective parties that he is not required to be joined as a party.

4. Mr. Shalin Mehta, learned Senior Counsel would submit that such an application is not necessary in light

of the pursis which is part of the paper book at page 874.
The application for permission to withdraw shall be decided on its own merits considering the objections of the respective parties.

5. Stand over to 07.02.2024.

(BIREN VAISHNAV, J)

DIVYA

(NISHA M. THAKORE, J)