

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CIVIL REVISION APPLICATION NO. 486 of 2024**

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LILABEN RAJABHAI PATEL & ORS.

Versus

JAYESHBHAI KANUBHAI PATEL & ORS.

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Appearance:

MR SP MAJMUDAR(3456) for the Applicant(s) No. 1,2,3,4

MR V Z BHARDA(12667) for the Applicant(s) No. 1,2,3,4

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**CORAM: HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

**Date : 25/10/2024**

**ORAL ORDER**

Learned advocate Mr. V.Z. Bharda appearing for the applicants has tendered a draft amendment. The amendment is allowed in terms of the draft. The same shall be carried out at the earliest.

Learned advocate Mr. Bharda appearing for the applicants submits that the applicants herein are the original defendant Nos.10 to 13 in the suit preferred by the respondent No.1-plaintiff for partition, declaration and permanent injunction. Learned advocate Mr. Bharda submits that, in fact, the forefather of the plaintiff, namely, Kanubhai executed registered sale deed in favour of the defendant Nos.10 to 12 in the year 2002 and since then they are occupying and enjoying the possession over the suit property, and the same was well within the knowledge of the plaintiff and other family members. The said Kanubhai passed away on 19.12.2006, and during his lifetime, there was no dispute with regard to the sale deed in question. Learned advocate Mr. Bharda submits that ,

however, the respondent No.1-plaintiff, all of a sudden woke up from the slumber and filed a suit in the year 2015, i.e, after a period of almost thirteen years from the date of execution of the sale deed. Therefore, the applicants herein, i.e, the defendant Nos.10 to 12 preferred an application under Order 7 Rule 11 of the CPC for rejection of the plaint/suit, which has not been entertained by the trial court. He submits that the suit filed by the plaintiff itself is not maintainable being barred by law of limitation, and it is a settled proposition of law that if the property is transferred by executing a registered sale deed, then the execution of the sale deed itself can be considered to be deemed knowledge. To bolster his submission, learned advocate Mr. Bharda relies upon the decision in the case of Padhiyar Prahladi Chanaji (Deceased) Thr. L.R.S., vs. Maniben Jagmalbhai (Deceased) Thr. L.R.S., reported in 2022 (12) SCC 128. Thus, in the present case, the sale deed was executed in the year 2002 and the suit came to be filed in the year 2015 and, therefore, the suit itself is barred by limitation and required to be dismissed.

Considering the above, issue notice, making it returnable on 19.12.2024.

Till then, let there be an ad-interim relief in terms of Para-13(B).

Direct service is permitted.

**(DIVYESH A. JOSHI,J)**

VAHID