

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3191 of 2025**

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RAMDEV FOOD PRODUCTS PRIVATE LIMITED**Versus****R.P.C. MARKETING AGENCY & ANR.**

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Appearance:**YUVRAJ G THAKORE(7785) for the Appellant(s) No. 1**

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CORAM:HONOURABLE MS. JUSTICE SANGEETA K. VISHEN**and****HONOURABLE MR.JUSTICE MOOL CHAND TYAGI****Date : 04/09/2025****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

Mr Yuvraj G. Thakore, learned advocate for the appellant submitted that the learned Judge, accepted the application Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the Code") on the ground of bar under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "SARFAESI Act")

2. It is submitted that the suit was filed, seeking specific performance of the agreement to sell dated 06.04.2010 coupled with the alternative prayer of seeking damages as indicated therein. However, the learned Judge, has recorded in paragraph 32 of the order, the incorrect facts that the permanent injunction has been sought for restraining the defendant no.2 not to conduct the auction and that there is a direct challenge to the notice dated 08.01.2011.

3. It is submitted that the prayer of the plaintiff was not to challenge the notice. It is submitted that there was an alternative prayer seeking damages and in view of the alternative prayer, the application could not have been allowed and the plaint, ought not to have been rejected.

4. Reliance is placed on the judgment of the Apex Court in the case of *Central Bank of India vs. Prabha Jain* reported in (2025) 4 SCC 38. Attention is invited to paragraphs 24 and 25 wherein, it has been held and observed that even if one of the reliefs survives, the plaint cannot be rejected under Order VII Rule 11 of the Code.

5. Issue notice to the respondents, returnable on 06.10.2025.

6. Direct service is permitted.

(SANGEETA K. VISHEN,J)

(MOOL CHAND TYAGI, J)

BINOY B PILLAI

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: BINOY BALAKRISHNA PILLAI(HC00183), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 04/09/2025 16:51:38