

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 3638 of 2024**

**With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2024
In R/FIRST APPEAL NO. 3638 of 2024**

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BIPINCHANDRA M. PARMAR & ORS.

Versus

PALMSPRING REALTIES LLP THROUGH PARTNER RAJAN
VIMALBHAI SHAH

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Appearance:

MR RAKESH G RAJ(10527) for the Appellant(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,20,21,22,23,24,25,3,4,5,6,7,8,9

MR TEJAS P SATTA(3149) for the Appellant(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,20,21,22,23,24,25,3,4,5,6,7,8,9

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CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 29/10/2024

ORAL ORDER

Heard Mr. Tejas Satta, learned advocate for the appellants. It is submitted that the appellants are the members of the Cooperative Society and have derived right in the suit property inasmuch as they were entitled to allotment of tenement. The plaintiffs have initially approached before the Board of Nominees by preferring Arbitration Proceedings in respect of suit land which was registered as Lavad Case No.317 of 2001 (new No.311 of 2002). In the said proceedings, the Society and Corporation were joined as defendant. Initially by order dated 23.4.2001, ad-interim injunction order was granted against the aforesaid defendants which was later on confirmed by the Tribunal in the revisional proceedings. Ultimately, the order passed in their favour holding the society liable to allot the residential units to its members. It was also declared that the development

agreement and other contracts were operative and binding upon the society as well as upon Corporation. The members have therefore, approached for execution of the aforesaid order by preferring execution proceedings before the competent Court. According to the learned advocate, the aforesaid proceedings are still pending. In the meanwhile, the defendants who claim to be power of attorney holder and the partner of the Corporation had entered into further transaction of the suit land with third parties, which gave cause of action for the present appellants to approach the Civil Court. The learned Judge without appreciating the aforesaid facts, has allowed the application preferred by the respondent under Order 7 Rule 11 (A) & (D) of the Code of Civil Procedure thereby rejecting the plaint essentially on the ground of limitation.

Considering the aforesaid submissions of the learned advocate for the appellants, issue notice making it returnable on 19.11.2024. Direct service is permitted.

RATHOD KAUSHIKSINH

(NISHA M. THAKORE,J)