

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 3638 of 2024
With
CIVIL APPLICATION (FOR AMENDMENT) NO. 2 of 2025
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 Nos. 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 Nos. 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 NK MAJMUDAR(430) for the Defendant No. 1

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

Date : 21/01/2025

ORAL ORDER

Order in Civil Application no.2 of 2025 :-

1. Heard Mr. Tejas P. Satta, learned advocate for the applicant – original appellant.

2. The present application is filed seeking amendment in the cause-list by joining the authorised person of the respondent no.1 firm as party to the proceedings. The prayer is also sought for to join the Bharatbhai Ramabhai Bharvad as party respondent no.2. It is pointed-out by the learned advocate for the applicants that inadvertently the respondent

no.2 was left-out from the cause title of the captioned appeal, as well as application seeking stay. He has prayed for appropriate orders to array the said party as respondent no.2.

3. Mr. N. K. Majmudar, learned advocate for the respondent no.1 firm has vehemently objected to the aforesaid submissions of learned advocate for the applicant. The attention of this Court was invited to the Rule-32A of the Gujarat High Court Rules, 1993. It was pointed-out that in fact the rules prescribed format of presentation Form-A and Form-B under Rule-32A whereby it is mandatory for the advocate, who presents the proceedings or any matter before the registry to comply with the details prescribed in the format. While referring to the aforesaid format, learned advocate has submitted that in fact it was a duty of the learned advocate for the applicant to remove the office objections as was raised by the registry at the stage of scrutiny of the matter. Learned advocate has placed reliance upon the judgment of this Court in the case of *H. M. Solanki Vs. Principal Chief Conservator of Forest reported in 2000 (3) GLR 2712* whereby the Court has held that as strongly criticized, the approach of the learned advocates in presenting the matters, which should have been otherwise in conformity with the rules. The non-compliance of the procedural requirements of the matters addressed to the workload of the registry and the rules have been framed in this regard to avoid such burden.

3.1 Considering the above aspect, the learned advocate has submitted that in fact, the rules are mandatory in nature and

are required to be strictly adhere to non-compliance of the details specified in the format. The registry ought not to have accepted the matter for registration of appeal. Learned advocate had further demonstrated while inviting the attention of this Court to indicate that in fact while scrutinizing the matter at the stage of registration of appeal, the registry has raised specific objection in this regard. However, later on without any cure of the aforesaid defects of non tallying of party, the appeal has been registered and has also been circulated for admission hearing. Learned advocate had also relied upon the judgment of the Hon'ble Division Bench in case of *Vrundavan Co-operative Housing Society Ltd., through Alpeshbhai Chimanlal Patel Vs. Vrundavan Development Corporation reported in 2024 (0) GUJHC 34181*. Learned advocate has also drawn attention of this Court to Rule 8A. However, learned advocate had submitted to pass appropriate orders.

4. Having heard learned advocates for the respective parties and having perused the record, indisputably the proposed respondent no.2 was party to the original proceedings being joined as defendant no.2 as rightly pointed-out by the learned advocate for the respondent no.1. The registry had raised the office objections with regard to the non tallying of the parties along with any office objection at the time of acceptance of appeal for registration. Having noticed the fact that without any order being passed by this Court permitting circulation of the matter with office objections, the same has been later on registered and has been notified before this Court for admission hearing without

removal of office objections. The explanation was sought for from the registry in this regard. The appropriate explanation in the form of note has been placed on record by the registry, which has been accepted by this Court as noted in the order dated 16th January, 2025. As regards submissions made by the learned advocate for the respondent, it was the duty of the learned advocate for the applicant to see to it that the office objections as raised by the registry is duly complied with. The only explanation which is offered by the learned advocate for the applicant is due to workload and pressing for urgent orders in the matter, inadvertently, the respondent no.2 was left-out from the array of parties in the appeal memo as well as application for stay. The aforesaid explanation offered by the learned advocate for the applicant is nothing but the negligency on the part of the learned advocate for the applicant to not to attend the matter sincerely. Since, the appeal has been registered and considering the larger interest of justice, without going into the technicalities of the matter, the present application seeking impleadment of the respondent no.2 is hereby **allowed**. So far as the prayer with regard to the joining of the authorised person of the respondent firm is concerned, the same is permitted to be amended in the cause title of the appeal as well as application seeking stay.

5. The present application is allowed subject to cost of Rs.5,000/- to be deposited by the learned advocate for the applicant with the Gujarat State Legal Service Authority before the next date of hearing. The receipt of the payment shall be produced on the next date of hearing. With these

observations, the present application stands allowed to the aforesaid extent.

Order in First Appeal :-

Issue **Notice** upon the respondent no.2 returnable on **7th February, 2025. Direct service permitted.**

AMAR RATHOD...

(NISHA M. THAKORE, J.)