

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 436 of 2024**

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LR OF DECD. ABDULLA AKBARALI MAKATI SHABBIR KASAMALI MAKATI
Versus
DILIP RATILAL CHANDALIYA & ORS.

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Appearance:

MR NITIN M AMIN(126) for the Applicant(s) No. 1
MR SANJAY M AMIN(130) for the Applicant(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 30/09/2024

ORAL ORDER

Learned advocate Mr. Nitin M. Amin appearing for the applicant-original defendant submits that the applicant herein is the original defendant in the suit filed by the respondents herein being Regular Civil Suit No.292 of 2012 praying for eviction and getting possession of the suit premises, which was partly allowed by the learned Addl. Civil Judge, Jamnagar vide judgment and decree dated 27.09.2017, whereby the suit premises was ordered to be vacated and the possession was ordered to be handed over to the present respondents -original plaintiffs. The said order was assailed by the applicant herein by filing a Regular Civil Suit No.65 of 2017 in the court of the learned Principal District Judge, Jamnagar, and the first Appellate Court vide impugned judgment and decree dated 29.07.2024, relying upon the judgment of the Hon'ble Supreme Court in the case of Ganpat Ladha vs. Sashikant Vishnu Shinde, reported in 1978 (2) SCC 573, rejected the suit filed by the applicant herein and confirmed the judgment and

decree passed by the trial court, which is unjust, illegal, improper and bad in law as the decision in the case of Ganpat Ladha (supra), upon which reliance is being placed by the first Appellate Court while recording its findings, has already been overruled by a Larger Bench of the Hon'ble Apex Court in the case of Smt. Gian Devi Anand vs. Jeevan Kumar & Ors., 1985 SCC (2) 683. He, therefore, submits that the judgment and decree passed by both the courts below are required to be quashed and set aside.

Issue notice, making it returnable on 22.11.2024.

Till then, parties are directed to maintain the status-quo as regards the nature, character and possession of the suit property.

Direct service is permitted.

(DIVYESH A. JOSHI,J)

VAHID