

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 15783 of 2025**

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DHIRUBHAI VASANTBHAI @ DHIRUBHAI VASANJIBHAI PATEL
(ACHCHARANWALA) & ORS.

Versus

RAMANBHAI NAROTTAMBHAI PATEL & ORS.

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Appearance:

MR ASPI M KAPADIA(1865) for the Petitioner(s) No. 1,2,3

MR KAIZAD A KAPADIA(12168) for the Petitioner(s) No. 1,2,3

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CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA

Date : 12/12/2025

ORAL ORDER

[1] Heard learned advocate Mr. Aspi Kapadia for the petitioners.

[2] Learned advocate Mr. Aspi Kapadia for the petitioners vehemently submitted that compromise was arrived at between the same parties and a decree was drawn accordingly. However, one of the original defendants Nos.6.4 and 6.9, being aggrieved, approached the Court by way of an application under Order XXIII Rule 3 of the Code of Civil Procedure after eight years. Mr. Kapadia submitted that the present petitioners appeared before the Court upon receipt of notice and lodged their objections in the form of

reply. However, learned Principal Senior Civil Judge, Olpad, without giving any reasons and / or dealing with any objection of the present petitioners, restored the suit despite there was no separate application for condonation of delay.

[3] Considering the aforesaid submissions and having gone through the impugned order dated 10th June 2025 passed by the learned Trial Court below Exhibit : 1 in C.M.A.C. No.25 of 2018 (at page : 28 of the petition), *prima facie*, a case has been made out.

[4] **Notice** returnable on 9th January 2026.

[5] In the meantime, there shall be stay of operation and implementation of the impugned order 10th June 2025 passed by the learned Principal Civil Judge, Olpad below Restoration Application No.66 of 2009 Exhibit 1 in Special Civil Suit No.12 of 1998 till the next date of hearing.

Direct service is permitted.

(NIRAL R. MEHTA,J)

CHANDRESH