

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 494 of 2024**

=====

JANI PRAVINKUMAR NATTHUBHAI

Versus

PATEL SHANTABEN HARGOVANBHAI & ORS.

=====

Appearance:

MR MAHESH BHAVSAR(1781) for the Applicant(s) No. 1

MR PAVAN P VYAS(11057) for the Applicant(s) No. 1

MRS HM BHAVSAR(5340) for the Applicant(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 18/11/2024****ORAL ORDER**

1. Heard Mr. Mahesh Bhavsar, learned advocate for the applicant.

2. Mr. Mahesh Bhavsar, learned advocate for the applicant submits that the applicant is the original defendant no.1 and respondents nos.1 to 6 are the original plaintiffs and respondent nos.7 and 8 are the original defendant nos.2 and 3. The respondent nos.1 to 6 have filed the suit in the year 2023 for the purpose of getting order of specific performance, declaration as well as permanent injunction. Mr. Bhavsar, learned advocate has read the pleadings made in the plaint and submitted that it is the specific case of the plaintiffs that the deed of agreement to sale had been executed between the forefathers of the opponents and the father of original plaintiffs in the year 1974 and the present suit is filed in the year 2023. Therefore, there is gross delay of more than 49 years in

instituting the suit. Therefore, as per the principle of law laid down by the Hon'ble Apex Court in the case of **Smt. Dilboo (Dead) by Lrs. & Ors Vs. Smt. Dhanraji (Dead) And Ors.** reported in **AIR 2000 SC 3146 : 2000 (7) SCC 702**, the period of limitation would be started to be commenced from the date of registration of the sale-deed. Admittedly, the suit is filed after a lapse of period of more than 49 years and therefore, hopelessly barred by law of limitation. The said fact was brought to the notice of the learned trial Court by way of preferring an application under Order VII Rule 11(a) and (d). Despite the said fact, the learned trial Judge has rejected the application by assigning vague reasons and also, observed that the period of limitation is a mixed questions of law and facts. Therefore, the said view adopted by the learned trial Judge is erroneous one. Therefore, the present application requires consideration.

3. Considering the above stated factual aspects of the matter, prima-facie, it seems that there is substance in the matter. Let **Notice be issued** to the opponents returnable on **07.01.2025**.

In the meantime, let there be an ad-interim order in terms of Para-7(C).

Direct service is permitted.

(DIVYESH A. JOSHI,J)

A. B. VAGHELA