

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 595 of 2025**

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DIPAK SHIVSHANKAR TRIVEDI

Versus

DECD. ASHA KAMATH THROUGH LHR SANGEETA RANE

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Appearance:

MR BJ TRIVEDI(921) for the Applicant(s) No. 1

MS JIGNASA B TRIVEDI(3090) for the Applicant(s) No. 1

MR NIRAD D BUCH(4000) for the Opponent(s) No. 1

MRS. BHAVINI N. BUCH(5403) for the Opponent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 23/04/2026

ORAL ORDER

1. Heard learned advocate Mr. B. J. Trivedi for the applicant and learned advocate Mr. Nirad D. Buch for the opponent No.1. Perused the record.

2. It is submitted that the applicant has filed a suit for recovery of possession of the suit property against the respondent. It is submitted that suit property is purchased by the applicant by registered sale deed dated 3.10.2024 from its erstwhile owner Mr. Jayesh Dholakiya. The defendant - present respondent submitted written statement and counter claim wherein a plea of adverse possession is raised against the present petitioner - original plaintiff. It is submitted that the counter claim of adverse possession is not maintainable against the present

applicant as there is no cause of action arose against plaintiff and more particularly, when the plaintiff has purchased the suit property in 2024, a question of adverse possession does not arise. At the time of issuance of notice, the proceedings of the trial were stated by order dated 7.10.2025. It is submitted that the said interim relief be modified and plaintiff be permitted to proceed with the suit.

3. As against this, a contention is raised that the rejection of an application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 is just and proper as plaintiff has not stated a specific clause under which the application sought to be tendered and the plaint is sought to be rejected.
4. Learned advocate for the respondent has further submitted by referring paragraph No.2.5 of the counter-claim and contended that necessary averments are pleaded so far as claim of adverse possession is concerned. It is further contended that the ingredients of adverse possession do exist in the counter-claim.
5. I have considered the submissions canvassed by learned

advocates for the respective parties and perused the papers available on record.

6. It appears from the record that in the counter claim (Exh.14) respondent has stated that the previous *defecto* owner Mr. Jayesh Dholakiya was in knowledge of the fact that the original defendants are in possession of the suit property since 29 years and said Mr. Jayesh Dholakiya has never objected to the same and has never initiated any litigation against the defendant or against the mother of the defendant. It also appears from the counter claim that there is no averment as to the fact that as on which date the possession has become hostile against the erstwhile owner Mr. Jayesh Dholakiya. So far as the present applicant is concerned, since he has purchased the suit property in the year 2024, the plea of adverse possession against the plaintiff is a question which requires to be considered.
7. In view of above, matter requires consideration. Hence. Rule.
8. In the meantime, the order dated 19.8.2025 passed by the learned 8th Additional Senior Civil Judge, Ahmedabad (Rural),

Navrangpura in Special Civil Suit No.291 of 2025 is stayed. Exh.14 – counter claim is also stayed. The parties are permitted to proceed with the trial of the main suit.

9. The learned trial Court shall decide the application filed by original defendant for impleadment of Mr. Jayesh Dholakiya as defendant in the counter-claim, which is to be heard and decided strictly on merits without being influenced by the observations made in this order.
10. Direct Service is permitted.

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(D. M. DESAI,J)