

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 5415 of 2019****With****CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2022
In R/FIRST APPEAL NO. 5415 of 2019****With****CIVIL APPLICATION (FOR VACATING INTERIM RELIEF) NO. 5 of 2023
In R/FIRST APPEAL NO. 5415 of 2019****With****CIVIL APPLICATION (FOR ORDERS) NO. 6 of 2023
In R/FIRST APPEAL NO. 5415 of 2019**=====
RAKESHKUMAR JAYPRAKASH AGRAWAL**Versus****JAYPRAKASH RAMGOPAL AGRAWAL (EXPIRED DURING THE
PENDENCY OF THE SUIT) & ORS.**
=====**Appearance:****M R BHATT & CO.(5953) for the Appellant(s) No. 1****MS PANCHAM JHALA FOR MR MUNJAAL M BHATT(8283) for the
Appellant(s) No. 1****DECEASED LITIGANT THROUGH LEGAL HEIRS/ REPRESENTATIVES
for the Defendant(s) No. 2,3****MR JV JAPEE(358) for the Defendant(s) No. 4****RULE SERVED for the Defendant(s) No. 2.3,3.1,3.2,3.3****RULE UNSERVED for the Defendant(s) No. 2.1.1,2.1.2.1,2.1.2.2,2.1.2.3,2.1.3****SERVED BY AFFIX. (R) for the Defendant(s) No. 5,6,7,8****UNSERVED EXPIRED (R) for the Defendant(s) No. 2.2**
=====**CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN
and****HONOURABLE MR. JUSTICE NIRAL R. MEHTA****Date : 20/02/2025****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)****Order in Civil Application (for Orders) no.6 of 2023:**

1. Mr J. V. Japee, learned advocate, states that captioned application is seeking deletion of the original respondent nos.1, 2, 2.1 etc. as indicated in the prayer clause 10(b). Request is made that the applicant is not pressing the captioned civil application.

2. Acceding to the request, the captioned civil application is disposed of as not pressed. No order as to costs.

Order in Civil Application (for Orders) no.1 of 2022:

1. By this application, the applicant, has prayed for the following

reliefs:

“10.A. This Hon’ble Court may be pleased to pass appropriate orders thereby directing the Opponents to refrain from carrying out any further development/ construction/ alteration work on the Kadodara property in question (Serial No. 6 to the schedule of the plaint);

B. Grant ex-parte ad-interim relief in terms of Paragraph (A) hereinabove;

C. This Hon’ble Court may be pleased to grant any other and further relief/s which may be deemed just and fit in the interest of justice.”

2. Mr J. V. Japee, learned advocate for the respondent no.4, has submitted that the prayer in the captioned application would not survive in view of the order dated 10.01.2023 passed by the coordinate Bench in civil application (for stay) no.1 of 2019 in R/ First Appeal no.5415 of 2019.

3. The coordinate Bench on 10.01.2023, has passed the following order:

“Order in First Appeal

Heard Mr. M. R. Bhatt, learned Senior Counsel with Mr. Munjaal M. Bhatt, learned advocate for the appellant – applicant and Ms. Barkha R. Maheshwari, learned advocate for contesting respondent.

Admit.

Order in Civil Application

Rule. Ms. Barkha Maheshwari, learned advocate waives service of notice of rule on behalf of contesting respondent.

We have considered the following aspect for allowing present Civil Application.

(1) Claims of the appellant - applicant herein that one property in question i.e. at Sr. No.6 of the schedule to the plaint was purchased in the name of partnership firm from the amount received by the appellant and his brother.

(2) The respondents are restrained from alienating the property since the year 1991.

(3) While issuance of notice in the present appeal way back in the year 2019, the status quo which was earlier granted during pendency of the suit proceedings, has been continued till date.

Hence, the Civil Application is allowed. Parties are hereby directed not to transfer, alienate or sell the property at Sr. No.6 of the schedule of the plaint till final disposal of the First Appeal. Rule is made absolute accordingly."

4. Therefore, the parties are directed not to transfer, alienate or sell the property at Sr. No.6 of the schedule of the plaint till final disposal of the First Appeal. In view of the above, Mr Manish R. Bhatt, learned senior counsel does not press the captioned civil application at this stage.

5. Civil application is disposed of accordingly as not pressed. No order as to costs.

Order in Civil Application (for Vacating Interim Relief) no.5 of 2023:

1. Mr J. V. Japee, learned advocate, without prejudice to the rights and contentions available, does not press the captioned civil application.

2. Without prejudice to the rights and contentions of the respective parties, the civil application is disposed of as not pressed. No order as to costs.

Order in First Appeal:

Registry is directed to list captioned First Appeal in the final hearing board.

(SANGEETA K. VISHEN,J)

(NIRAL R. MEHTA,J)

RAVI P. PATEL

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: RAVI PRAVINCHANDRA PATEL(HC01068), PRIVATE SECRETARY, at High Court of Gujarat on 21/02/2025 16:40:31