

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 15952 of 2024**

=====

KIRAN POPATLAL SHAH & ORS.**Versus****STATE BANK OF HYDERABAD & ORS.**

=====

Appearance:**MR. KM ANTANI(6547) for the Petitioner(s) No. 1,2,3,4****MR HS MUNSHAW(495) for the Respondent(s) No. 2,3,4****MR MEHUL SHARAD SHAH(773) for the Respondent(s) No. 1**

=====

CORAM:HONOURABLE MRS. JUSTICE MAUNA M. BHATT**Date : 02/12/2024****ORAL ORDER**

1. Heard learned advocate Mr. K. M. Antani for the petitioners. He submitted that the petitioners are the owner of the subject property for which there is dispute between respondent No. 1 – Bank and respondent No. 2 - Rajkot Municipal Corporation. The dispute between respondent No. 1 and 2 is in relation to assessment of tax to be paid by respondent No. 1 to respondent No. 2 wherein petitioners are not concerned. The petitioners had leased the subject land to respondent No. 1 and as per one of the covenant of the lease deed the taxes and other statutory dues for the subject property are to be paid by respondent No. 1 and therefore there is no liability of the petitioners for the payment of taxes to respondent No. 2.

2. So far as ownership of the subject land is concerned it is not in dispute that the petitioner is the absolute owner of the property and since the property has been given to respondent No. 1 – Bank on lease which is to get over on 13.12.2026. Inviting attention of this Court to one of the clauses of agreement, lease learned advocate for the petitioner submitted that the petitioner has right to discontinue with the lease, he wishes to do so however, on account of pendency of the petition filed by respondent No. 1 against respondent No. 2 being Special Civil Application No. 6196 of 2017 wherein interim relief in relation to no coercive action being granted the petitioners are not in a position to discontinue with the lease agreement. Learned advocate for the petitioners submitted that for no fault of them, they are not in a position to enjoy the property and hence present petition is filed.

3. Learned advocate Mr. Mehul Sharad Shah appeared on advance copy being served for respondent No. 1 and submitted that challenging the assessment made by respondent No. 2 for the property in question, respondent No. 1 has preferred petition and the same is pending adjudication. The petitioners are not party to the said proceedings since no relief is prayed against the present petitioners.

4. Considering the submissions, issue **Notice** returnable on **18.12.2024**.

(MAUNA M. BHATT,J)

SHRIJIT PILLAI