

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4946 of 2023****With****CIVIL APPLICATION (DIRECTION) NO. 2 of 2024****In R/FIRST APPEAL NO. 4946 of 2023****With****R/CROSS OBJECTION NO. 96 of 2024****In R/FIRST APPEAL NO. 4946 of 2023**

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THAKKAR (SAHAYATA) BHAILALBHAI JAYANTILAL

Versus

THAKKAR DARSHANKUMAR THAKARSHIBHAI & ORS.

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Appearance:

MS. KRUTI M SHAH(2428) for the Appellant(s) No. 1

MR BH KHER(6027) for the Defendant(s) No. 1

MR YV VAGHELA(2450) for the Defendant(s) No. 3.1,3.2,3.3,3.4,3.5

RULE SERVED for the Defendant(s) No. 2

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CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN

and

HONOURABLE MR. JUSTICE NIRAL R. MEHTA**Date : 27/02/2025****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**Order in Civil Application no.2 of 2024:

Ms Kruti M. Shah, learned advocate for the applicant, invited the attention of this Court to various orders and in particular, order dated 17.09.2024 to submit that the interim order granted earlier, was modified and both the parties, were directed to maintain status quo. It is further submitted that previously, on 05.07.2024, the opponent no.1, i.e. Thakkar Darshankumar Thakarshibhai was personally present in the Court and assured that he shall abide by the statement made in the affidavit dated 25.04.2024. Despite which and despite there being a direction to the parties to maintain status quo, the opponent no.1, has tried to overreach the Court process and performed pooja on the so called temple constructed. It is submitted that the said small temple, has been constructed overnight, only with a view to create a show that the opponent no.1, is in possession of the suit land.

2. It is further submitted that at no point of time, it was his case that there already exists a small temple. Even otherwise, the Court below, while dismissing the suit has categorically observed that neither of the parties, have been able to substantiate that they are in possession. It is therefore, submitted that the assurance extended that he will not deal with the property, is only an eyewash and only with a view to coming out of the order of status quo.

3. On the other hand, Ms Rucha Gami, learned advocate for Mr B.H. Kher, learned advocate for the opponent no.1, at the outset, has submitted that affidavit is filed, *inter alia*, tendering unconditional apology, coupled with a request to condone the lapse, imposing any condition that may be deemed fit. It is submitted that the deponent, has also assured that he shall not conduct any activity over the land in question till this Hon'ble Court may deem fit; however, it is regretted that in paragraph 4 of the affidavit, inadvertently, admission is recorded of existence of temple of Goga Maharaj. It is submitted that necessary affidavit shall be filed, correcting the said mistake and tendering unconditional apology with further assurance that no activity whatsoever, shall be taken and that the opponent, shall not enter the suit land. Request is made for some time.

4. At her request, list the matter on 17.03.2025.

(SANGEETA K. VISHEN,J)

(NIRAL R. MEHTA,J)

BINOY B PILLAI