

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CIVIL REVISION APPLICATION NO. 568 of 2024**

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GEETABEN PRAKASHBHAI PATEL

Versus

HARSHADBHAI CHANDUBHAI THAKORE & ANR.

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Appearance:

MR. HARIVADAN MISHRA(3753) for the Applicant(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 23/12/2024****ORAL ORDER**

1. Heard Mr. Harivadan Mishra, learned advocate for the applicant.

2. Mr. Harivadan Mishra, learned advocate for the applicant submits that the applicant herein is the original defendant, whereas, the respondents are the original plaintiffs. He submits that the original plaintiffs have filed the civil suit for cancellation of the registered sale-deed as well as permanent injunction, whereupon, the notice issued by the learned concerned court has already been served to the defendant. He further submits that the defendant has appeared through her advocate and filed an application under Order VII Rule 11(a) and (d) of CPC. The said application has been rejected. Hence, the present Civil Revision Application is preferred.

Mr. Mishra, learned advocate further submits that it is a

settled preposition of law that at the time of entertaining application under Order VII Rule 11(a) and (d), the learned concerned court has to go through the contents of the plaint as well as documents annexed alongwith the memo of the suit. Admittedly, at the time of institution of the suit, it is pleaded by the plaintiffs that in the year 2009, they had come to know about the execution of the registered sale-deed on the basis of entry was mutated in the revenue record and in the revenue proceedings, the notice was issued under Section-135(d), which was duly served to them and a pencil entry was mutated in the revenue record. He further submits that the suit has been filed in the year 2021, therefore, there is gross delay in instituting the suit. Hence, as per the settled preposition of law, more particularly, the judgment rendered 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 date of registration of the document would be considered as deemed date of knowledge, therefore, within a period of three years from the date of knowledge, the cause of action arises and therefore, the suit is required to be instituted within stipulated time. Prima-facie, it appears that the suit is hopelessly time barred and hence, requires to be rejected at threshold. Instead of that, the application preferred by the applicant had not been entertained. Hence, there is merit in the application, the same is required to be entertained.

3. I have perused the materials produced alongwith the memo of application, prima-facie, it is found out that there is

merit in the matter. Hence, ***Issue Notice*** to the respondents, returnable on **31.01.2025**.

In the meantime, there shall be an ad-interim order in terms of Para-8(C).

Direct service is permitted.

A. B. VAGHELA

(DIVYESH A. JOSHI,J)