

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 564 of 2024**

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2024
In R/SECOND APPEAL NO. 564 of 2024

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KOKILABEN WD/O MAFATBHAI PARSHOTTAMBHAI RAMI & ANR.

Versus

HARISHBHAI MAFATBHAI RAMI & ORS.

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Appearance:

MR JINESH H KAPADIA(5601) for the Appellant(s) No. 1,2

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CORAM: HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 24/12/2024

COMMON ORAL ORDER

1. Mr. Jinesh Kapadia, learned advocate for the appellants submits that the appellants are the original plaintiffs and the respondents are the original defendants. The original plaintiffs have filed the suit for declaration and partition. The said suit had already been partly allowed by the learned trial Court. Being aggrieved and dissatisfied with the said order, both the parties have filed separate appeals, wherein, the appeal preferred by the present appellants- original plaintiffs has been dismissed. Therefore, being aggrieved and dissatisfied with the order of learned appellate court, the present second appeal is preferred by the appellants herein.

2. Mr. Jinesh Kapadia, learned advocate has drawn attention towards the observations made by the learned appellate court

and submitted that it is an admitted position of fact that the suit property belongs to common ancestral property and at the time of mutating the property, the name of the father of the present appellants has not been mutated despite the fact that they are in possession of the said property since many years and then-after, one of the respondent has gifted the said property in the name of uncle of the present appellant and therefore, the disputes have been cropped up. The said facts have already been brought to the notice of the court concerned and the evidence is also laid to that effect, but it is not appreciated by the learned court concerned in true spirit and proper perspective.

3. I have perused the materials placed on record alongwith the second appeal, prima-facie, I am of the opinion that there is merit in the appeal. Hence, issue notice to the respondents, returnable on **20.01.2025**.

During the interregnum period, the parties are directed to maintain the status-quo.

Direct service is permitted.

A. B. VAGHELA

(DIVYESH A. JOSHI,J)