

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4529 of 2024****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2024****In****R/FIRST APPEAL NO. 4529 of 2024****With****CIVIL APPLICATION (FOR ADDITIONAL EVIDENCE) NO. 2 of 2024****In****R/FIRST APPEAL NO. 4529 of 2024**

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VINUBHAI DHIRUBHAI KATHROTIA & ORS.

Versus

HEIRS OF LR OF DECD. BAI PARVATIBEN D/O. AMTHA LALVABHAI AND
W/O. GULABBHAI RANCHHODBHAI & ORS.

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Appearance:

MR DAXESH D BAROT(13149) for the Appellant(s) No. 1,2,3

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CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN**and****HONOURABLE MR. JUSTICE SANJEEV J. THAKER****Date : 19/12/2024****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

1. Mr. Daxesh D. Barot, learned advocate for the appellants, at the outset, submitted that the appellants are the original defendant Nos.6 to 8. Defendant Nos.6 and 7, i.e. original appellant Nos.1 and 2, have shifted to U.S.A. in the year 2016 and are not residing at the address, as indicated in the cause-title of the suit. So is the position with defendant No.8-original appellant No.3 who has also shifted to some other place. It is submitted that the bailiff report clearly indicates that defendant

No.8 is not residing at the given address and has shifted to some other place. The entire suit proceeding has been tried *ex-parte* and the appellants were never heard. Notice has been sent to the appellants at the address where they were not residing. It is only after issuance of the Public Notice that the appellants came to know about the judgment passed by the Court below. After procuring the documents, the appellants came to know that the sale deed executed in their favour in the year 2003 has been declared as null and void qua the land bearing Block No.62 of Survey No.36/1.

2. It is next submitted that similarly, the sale deed executed in favour of defendant Nos.9 and 10 has also been declared as null and void and being aggrieved, the defendant Nos.9 and 10 had preferred First Appeal No. 3461 of 2024 before this Court and this Court has been kind enough to issue Notice and to extend the stay granted by the Court below. It is urged that the appellants are in possession of the suit land since the year 2003 and have been cultivating the land even as on today.

3. Considered the submissions. Issue Notice to the respondents, returnable on **08.01.2025**.

Till the next date of hearing, the parties are directed to maintain status quo qua the land bearing Block No.62 of Survey No.36/1.

Direct service is permitted.

(SANGEETA K. VISHEN, J)

(SANJEEV J.THAKER, J)

PRAVIN KARUNAN