

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**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 SP MAJMUDAR WITH MR DAXESH D BAROT(13149) for the****Appellant(s) No. 1,2,3****DECEASED LITIGANT for the Defendant(s) No. 1,1.5,3****M/S.VYAS ASSOCIATES(1559) for the Defendant(s) No. 1.1,1.2,1.3,1.4****MR ARPIT A KAPADIA(3974) for the Defendant(s) No. 6,7****MR. SHALIN J PATEL(14556) for the Defendant(s) No. 1.1,1.2,1.3,1.4****RULE NOT RECD BACK for the Defendant(s) No. 2,4,5**

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CORAM: HONOURABLE MR. JUSTICE ILESH J. VORA**and****HONOURABLE MR. JUSTICE R. T. VACHHANI****Date : 10/08/2026****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)**

1. We have heard Mr. S.P. Majmudar, learned advocate for Mr. Daxesh D. Barot and Mr. Shalin J. Patel on behalf of M/s. Vyas Associates and Mr. Arpit Kapadia, learned advocate.
2. This First Appeal is directed against the judgment and decree dated 31.08.2024, passed in Special Civil Suit No. 42 of 2018, whereby, the Principal Senior Civil Judge, Surat, by allowing the suit, declared one half share of the plaintiff in the suit properties, namely, survey No. 53/3 and survey No. 36/1 and further declared the registered sale deed dated 28.01.2003 executed in favour of defendant Nos. 6 to 9 and registered sale deed No. 3760 dated

31.10.2013 with respect to land bearing survey No. 53/3, as null and void.

3. Before the trial Court, the appellants herein were being arraigned as defendant nos. 6 to 8.
4. During the pendency of the Appeal, the original plaintiffs and defendant Nos. 6 to 8 by registered settlement agreement, settled their dispute with respect to land bearing survey No.36/1. So far as land bearing survey No. 36/1 is concerned, the plaintiffs have relinquished and/or abandons their right with respect to land bearing survey No. 36/1 (suit property) in favour of the defendant nos. 6 to 8. In the registered settlement agreement (confirmation-cum-declaration), the parties have agreed to relinquish their rights in favour of present appellants – original defendant nos. 6 to 8, for which, the substantial payment by cheques as referred in the deed was already paid to the parties.
5. All the relevant parties i.e. appellants and respondent nos. 6 to 8 have joined the Appeal proceedings through virtual. Upon inquiry by this Court, the parties have confirmed the terms and conditions of the settlement agreement and also acknowledged their signatures put on the confirmation-cum-declaration deed. The copy of the same along with the sworn affidavit of appellant no.3 is taken on record.
6. Mr. S.P. Majmudar, learned advocate referring to the Order 23 Rule 3 of the Code of Civil Procedure, contends that the suit is

adjusted in part by lawful agreement allegedly executed by registered deed and therefore, Court can record the compromise in respect of part of the subject matter of the suit.

7. Thus, it is submitted that by recording the compromise, the appeal may be disposed of.
8. Mr. Arpit Kapadia, learned advocate submits that the compromise may be recorded without prejudice to the rights and contention of the original defendant nos. 9 & 10, as the First Appeal against the impugned judgment and decree with respect to the remaining parcel of land, is still pending.
9. We have carefully examined the affidavit of appellant no. 3 and the registered confirmation-cum-declaration, by which the parties i.e. plaintiffs and original defendant nos. 6 to 8 have arrived at the settlement, whereby, the plaintiffs have abandoned and/or relinquished their rights with respect to land bearing survey No. 36/1, which is subject matter of suit property. We are satisfied with the adjustment of the part of the suit property and permission for disposal of the present appeal by decree in terms of consent is hereby granted. The decree qua land bearing survey No. 36/1 is hereby set aside.
10. Accordingly, the present Appeal is disposed of in terms of Order 23 Rule 3 of the Code of Civil Procedure. Decree be drawn accordingly in terms of compromise as referred above.

11. We made it clear that the First Appeal No. 3461 of 2024 pending with respect to remaining parcel of lands, shall be decided on its own merits.
12. In view of the order passed in main First Appeal, no order in Civil Application No. 2 of 2024 and is disposed of accordingly.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

P.S. JOSHI