

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4593 of 2024****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2024****In R/FIRST APPEAL NO. 4593 of 2024****HASUMATIBEN MOHANLAL PATEL & ORS.****Versus****LHS OF DECD. RAJIBHAI RATANSHIBHAI PATEL & ORS.****Appearance:****DESHAL A MODI(12518) for the Appellant(s) No. 1,2,3,4,5****HIREN A RAVAL(8613) for the Appellant(s) No. 1,2,3,4,5****CORAM:HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****and****HONOURABLE MR. JUSTICE NIRAL R. MEHTA****Date : 08/01/2025****ORAL ORDER****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

Heard Mr Salil M. Thakore, learned advocate with Mr Deshal A. Modi, learned advocate for the appellants. It is submitted that agreement to sell, was executed in the year 2011 for all parcels of land; however, the sale deeds executed in the year 2012 were only for 17 parcels of land. Consideration of 17 crore was paid as part of Rs.28 crore. It is submitted that there were two unsold parcels of land and some unsold portion of other lands of which, the plaintiffs have filed the suit challenging the sale deeds of the year 2012 as well as seeking possession of the unsold land.

2. It is submitted that the plaint, could have been rejected only in two eventualities, namely, barred by limitation or cause of action. The application Order VII Rule 11 of the Code of Civil Procedure, 1908 has been accepted solely on the ground of limitation of three

years, i.e. from the date of the execution of the sale deed in the year 2012 which, would not have been permissible inasmuch as, the suit was also filed seeking possession of the unsold lands.

3. Considered the submissions. Issue notice to the respondents, returnable on 24.02.2025.

4. Direct service is permitted.

(SANGEETA K. VISHEN,J)

BINOY B PILLAI

(NIRAL R. MEHTA,J)