IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL APPLICATION (FOR LEAVE TO APPEAL) NO. 5410 of 2025

In F/FIRST APPEAL/27791/2025

With
CIVIL APPLICATION (FOR AMENDMENT) NO. 1 of 2025 In R/CIVIL APPLICATION NO. 5410 of 2025
In
F/FIRST APPEAL NO. 27791 of 2025
With
F/FIRST APPEAL NO. 27791 of 2025

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HARDIK LAXMANBHAI PATEL & ORS.

Versus

DAKSHABEN D/O CHANDULAL MULSHANKAR PUROHIT & ORS.

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Appearance:
MR TATTVAM K PATEL(5455) for the Applicant(s) No. 1,2,3
DECEASED LITIGANT for the Respondent(s) No. 13,5,9
MR JC VYAS(992) for the Respondent(s) No. 29,30,31,32,33,34,35
MR JIGAR D DAVE(6528) for the Respondent(s) No. 13.2,13.3,13.4
MR. ASHOK A PUROHIT(6267) for the Respondent(s) No. 58,59,61
NOTICE SERVED for the Respondent(s) No. 1,14,15,17,18,19,20,21,22,23,28,37,39,44,47,48,49,50,51,5.1,52,5.2,53,5.3,5.4,55,5.5,56,5.6,57,67,68,71,72,73,76,77,78,84,87,9.1,9.2,9.3,9.4,9.5
NOTICE THROUGH SPEED POST SERVED for the Respondent(s) No. 24
NOTICE THROUGH SPEED POST UNSERVED for the Respondent(s) No. 25
NOTICE UNSERVED for the Respondent(s) No. 10,11,12,16,2,26,27,3,36,38,4,40,41,42,43,45,46,54,6,60,62,63,64,65,66,69,7,70,74,75,79,80,81,82,85,86
SERVED BY AFFIX(N) for the Respondent(s) No. 83
UNSERVED EXPIRED (N) for the Respondent(s) No. 13.1,8

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CORAM: **HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 07/07/2026

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

ORDER IN CIVIL APPLICATION (FOR LEAVE TO APPEAL) NO.5410 OF 2025 :

1. By way of filing the present Civil Application for leave to appeal, the applicants herein have sought to challenge the judgment and decree passed on 17.2.2025 below Exh.115 by the learned 2nd Additional Senior Civil Judge, Gandhinagar in Special Civil Suit No.9 of 2019.

2. Upon being served with the process, the respondents have entered the appearance.

3. The entire gamut of the case as reflected from the material on record is that the present applicants seek leave to file the appeal inter alia challenging the aforesaid judgment and decree mainly on the ground that the original plaintiff had executed the agreement to sell in favour of the applicants. Subsequent thereto, the original plaintiff filed the aforesaid suit against the defendants, however, in the aforesaid suit, an application was moved under the provisions of Order VII, Rule 11(d) of the CPC by the original defendants – respondents herein which came to be allowed. It further transpires as submitted by learned counsel appearing for the respective parties that neither the original plaintiff – respondent No.1 nor the defendants – respondents herein have challenged the aforesaid order, instead thereof, the present applicants have sought leave to file the appeal. It is also submitted by learned counsel for the applicants herein that even the applicants herein have also filed the suit for specific performance before the Civil

Court which is pending and awaiting for final disposal on the basis of the aforesaid agreement to sell executed by the respondent No.1 herein in favour of the applicants herein.

4. In view of the aforesaid factual position and as contended by learned counsel for the respective parties, since the suit is pending before the concerned Civil Court, the applicants herein would be at liberty to raise all the contentions available to them without their rights being affected by the impugned judgment and decree dated 17.2.2025 passed below Exh.115 by the learned 2nd Additional Senior Civil Judge, Gandhinagar in Special Civil Suit No.9 of 2019.

5. In view of the aforesaid observations, the concerned Civil Court before whom the Civil Suit is pending shall decide the suit on its own merits without being influenced by the rejection of the plaint by the impugned judgment and decree dated 17.2.2025 passed below Exh.115 by the learned 2nd Additional Senior Civil Judge, Gandhinagar in Special Civil Suit No.9 of 2019.

6. Subject to the aforesaid observations, the present Civil Application stands disposed of.

ORDER IN CIVIL APPLICATION (FOR AMENDMENT) NO.1 OF 2025 :

In view of the above order, the Civil Application stands disposed.

ORDER IN F/FIRST APPEAL NO. 27791 of 2025 :

Consequently, F/First Appeal No.27791 of 2025 also stands disposed of accordingly.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

H.M. PATHAN

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: HABIBULLAKHAN MOHAMMADKHAN PATHAN(HC00167), GOV, at High Court of Gujarat on 07/07/2026 17:34:33