

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SECOND APPEAL NO. 183 of 2015**

With
CIVIL APPLICATION (FOR STAY) NO. 3 of 2015
In R/SECOND APPEAL NO. 183 of 2015

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VANMALIDAS SHANKARLAL-DECD.

Versus

SUKHIBEN ALIAS SOMIBEN W/O BUDHIABHAI CHHITABHAI VASAVA &
 2 other(s)

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Appearance:

MR KM SHETH(838) for the Appellant(s) No. 1,1.1,1.2,1.3,1.4,1.5,1.6

MR KASHYAP R JOSHI(2133) for the Respondent(s) No. 1,2,3

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CORAM: HONOURABLE MR. JUSTICE SANDEEP N. BHATT**Date : 09/02/2024****ORAL ORDER**

1. The present Second Appeal has been filed by the appellants original plaintiffs under Sections 100 and 101 of the Civil Procedure Code being aggrieved with the impugned judgment and order passed in Regular Civil Appeal No. 154 / 2006 by the learned 4th Additional District Judge, Bharuch dated 18.09.2014 confirming the judgment and decree passed in Regular Civil Suit No.256 / 1998 by the learned 2nd Additional Sr. Civil Judge, Bharuch dated 28.02.2006 posing the substantial questions of

law as stated in the memo of appeal.

2. However during the course of hearing, both learned advocates have submitted that the matter may be remanded back as relevant documents have not been exhibited.

3. Therefore in order to arrive at the correct conclusion on appreciation of material and evidence, the matter is required to be remanded back to the trial court, which may consider the issue for the admissibility of the documents after providing an opportunity of hearing to both sides.

4. In the circumstances, the impugned judgment and order passed in Regular Civil Appeal No.154 / 2006 by the learned 4th Additional District Judge, Bharuch dated 18.09.2014 and the judgment and decree passed in Regular Civil Suit No.256 / 1998 by the learned 2nd Additional Sr. Civil Judge, Bharuch dated 28.02.2006 are hereby quashed and set aside and Regular Civil Suit No.256 / 1992 is remanded

back to the court of the learned Senior Civil Judge, Bharuch for deciding afresh in accordance with law after providing an opportunity of leading the evidence as well as hearing the parties. Regular Civil Suit No. 256 / 1992 is restored to file of the trial court accordingly. It is clarified that both sides will have an opportunity to bring necessary material and evidence on record in accordance with law.

5. With the above observation and direction, the present Second Appeal stands allowed to the aforesaid extent.

6. In view of the above, Civil Application for stay filed in Second Appeal does not survive and stands disposed of accordingly.

(SANDEEP N. BHATT,J)

MISHRA AMIT V.