

(2012) 11 GUJ CK 0026

In the Gujarat High Court

Case No : Misc. Civil Application for Direction No. 2276 of 2012 in Letters Patent Appeal No. 83 of 2002 in Special Civil Application No. 8819 of 2001

Mafatlal Sendhabahi Prajapati (DECD) Through Laxmiben and Others APPELLANT

Vs

Viraji Panaji (DECD) Through Javanji and Others RESPONDENT

Date of Decision : 01-11-2012

Acts Referred:

Citation : (2012) 11 GUJ CK 0026

Hon'ble Judges : R.R. Tripathi, J;N.V. Anjaria, J

Bench : Division Bench

Advocate : Dakshesh Mehta s - 6, for the Appellant; Jitendra M. Patel for Opponent(s) : 1, Mr. M.P. Shah for Opponent(s) : 2 - 3, 5 and Government Pleader for Opponent(s) : 6 - 8, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice Ravi R. Tripathi

1. Present application is filed by the heirs of the original respondent No. 4, whose name came to be deleted pursuant to the order dated 16/02/2004 passed in Civil Application No. 7532 of 2003 in LPA No. 83 of 2002, whereby the respondent No. 4 was ordered to be deleted [Annexure-IV Order dated 05/03/2012 (Coram: Mr. Justice V.M. Sahai and Mr. Justice A.J. Desai)]. Heard Learned advocate Mr. Rupang Mehta, who invited the attention to the Court for defect set out in Paragraph-4, which reads as under:-

As after demise of Mafatlal Sendhabhai Prapapati, the applicants have shifted to Kudasan village, the notice issued to the deceased could not be served. Then after, this Hon''ble Court had issued a fresh notice on 28/04/2011 at the address at Ahmedabad, the xerox copy of which is annexed hereto and marked Annexure-III to this application. Under the circumstances, this Hon''ble Court was pleased to permit the appellants in LPA No. 83/2002 to deleter the respondent No. 4

Mafatlal Sendhabhai Prajapati, by order dated 05/03/2012. The xerox copy of the order dated 05/03/2012 is annexed hereto and marked Annexure-IV to this application.

2. Learned advocate Mr. Mehta submitted that the respondent No. 4 is already deceased and present applicants are the heirs of the respondent No. 4 and it will be in the interest of justice, if they are granted an opportunity to contest the matter on merits. Heard learned advocate Ms. Kruti Shah appearing for respondent nos. 2, 3 and 5; learned advocate Mr. Jitendra Patel appearing for respondent No. 1 and learned AGP Ms. Rita Chandarana for respondent nos. 6, 7 and 8. In the interest of justice, the application is allowed and the order dated 05/03/2012 in Letters Patent Appeal No. 83 of 2002 in Special Civil Application No. 8819 of 2001, is recalled. The Registry to implead the present applicants as heirs and legal representatives of the respondent No. 4. The matter to proceed thereafter in accordance with law. Rule is made absolute.