

(2013) 01 GUJ CK 0027
In the Gujarat High Court

Case No : Appeal From Order No. 338 of 2011 with Civil Application No. 9880 of 2011 in Appeal From Order No. 338 of 2011

Pratham Builders and 2

APPELLANT

Vs

Ram Avtar Rathi and 1

RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 43 Rule 1, 104

Citation : (2013) 01 GUJ CK 0027

Hon'ble Judges : Rajesh H Shukla, J

Bench : Single Bench

Advocate : Harshadray A. Dave for the Appellants No. 1 - 3, for the Appellant; Dharendra Mehta for the Respondent(s) No. 1 and Mr. Shaivang D. Mehta for the Respondent(s) No. 1, for the Respondent

Judgement

Rajesh H. Shukla, J.—Present Appeal from Order has been filed by the appellants-original defendant nos. 1 to 3 u/s 104 read with Order 43 Rule 1 of the CPC being aggrieved with the impugned order passed below Exh. 5 in Special Civil Suit No. 161 of 2009 by the Additional Sr. Civil Judge, Surat dated 27.05.2011 on the grounds stated in the memo of appeal. Having heard learned counsel, Shri Harshadray Dave appearing with learned counsel, Shri Amit Thakkar for the appellants and learned counsel, Shri Dharendra Mehta for the respondent no. 1 and also having perused the papers, the impugned order does not require any interference. Moreover, serious disputes have been raised with regard to the payments, documents and other issues. The Court below has however noted that the plaintiffs are in possession of the premises in question since 2003. Therefore, the impugned order has been passed directing that the possession of the plaintiffs may not be disturbed by the defendants nor any transaction may be made to avoid any further complication.

2. Therefore pending hearing of the suit, suit property is required to be maintained as it is so that the rights of third party are not created or any

complication or multiplicity of the proceeding is avoided. At the same time, it is required to be clarified that the plaintiffs, who are in possession of the premises, shall also maintain status quo with regard to the suit property and shall not create any right or interest of third party to avoid any complication or multiplicity of the proceedings.

3. Therefore with the aforesaid clarification, present Appeal from Order stands disposed of accordingly. The trial court shall make an endeavour to decide main suit being Special Civil Suit No. 161 of 2009 as expeditiously as possible. In view of the above, Civil Application for stay does not survive and stands disposed of accordingly.