

(2010) 08 GUJ CK 0006

In the Gujarat High Court

Case No : Civil Application No. 5923 in 113 of 2010

Rakhmaiben

APPELLANT

Vs

Chandubhai Jerambahi Parmar and Another

RESPONDENT

Date of Decision : 12-08-2010

Acts Referred:

Citation : (2010) 08 GUJ CK 0006

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : M.B. Parikh, for the Appellant; Satyam Y. Chhaya, for the Respondent

Final Decision : Allowed

Judgement

M.R. Shah, J.—Heard Shri M.B. Parikh, learned advocate appearing on behalf of the applicants and Shri Satyam Chhaya, learned advocate appearing on behalf of the opponents on interim relief.

2. The present application has been preferred by the applicants-original appellants to stay further implementation and operation of the judgment and decree dated 29/12/2009 passed by the learned Principal District Judge, Amreli in Regular Civil Appeal No. 64/2005.

3. Shri M.B. Parikh, learned advocate appearing on behalf of the applicants-original appellants has submitted that as the dispute is with respect to partition and the learned trial Court partly decreed the suit declaring that the opponent-original plaintiff has 1/2 share in the suit house, and, therefore, if the decree, which has been confirmed by the learned appellate Court, is not stayed, in that case, the appeal would become infructuous.

4. Shri Satyam Chhaya, learned advocate appearing on behalf of the opponents-original plaintiffs has requested not to grant interim stay of further implementation of the judgment and decree passed by the learned trial Court confirmed by the learned appellate Court as the opponents-original plaintiffs

have succeeded in getting the decree.

5. Having heard the learned advocates appearing on behalf of the respective parties and considering the fact that the Second Appeal is already admitted and the judgment and decree passed by learned trial Court, confirmed by the learned appellate Court, is at large before this Court and, therefore, if the interim stay, as prayed for, is not granted the Second Appeal would become infructuous and, therefore, the ad-interim relief granted earlier is hereby directed to be continued as interim relief during the pendency and final disposal of the Second Appeal.

6. With this, the present application is allowed. Rule is made absolute to the aforesaid extent.

7. However, as the dispute is pending since many years and the original suit is of the year 1977, the applicants-original appellants are hereby directed to supply the paper book within a period of six months from today and thereafter Registry to place the main Second Appeal for final hearing at the earliest.