

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 226 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgment?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?

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UNNATI CONSTRUCTION

Versus

RAKESHBHAI MOHANBHAI PATEL  
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Appearance:

MR NILESH A PANDYA for Petitioner Nos. 1-1/4  
MR PARTHIV B SHAH for Respondent Nos. 1-2  
SERVED BY AFFIX.(N) for Respondent No. 3  
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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 29/01/2004

ORAL JUDGEMENT

1. Respondents 1 and 2 herein have filed a suit,  
being Special Civil Suit No.647 of 1998, in the Court of  
Civil Judge (Senior Division), at Vadodara. The said  
suit is filed for specific performance of the suit

agreement.

2. In the aforesaid suit, on behalf of the present petitioners, an application was submitted for allowing the present petitioners to be joined as co-defendants on the ground that the original owner has also executed an Agreement to Sell in their favour and subsequently, the original owner has colluded with the present plaintiff of Special Civil Suit No.647 of 1998. On the said ground, it is prayed that they are necessary as well as proper parties and, therefore, they are required to be joined as defendants in the said suit. The trial court has rejected the said application by observing that if the applicants have got any right, they can file a substantive civil suit, by virtue of the Agreement executed by the original owner in their favour. In my view, the view taken by the trial court cannot be said to be contrary to law. Mr.Shah, learned Advocate for the respondents, also pointed out that the present petitioners have also filed a substantive civil suit, being Special Civil Suit No.467 of 1999, before the Civil Judge (Senior Division), Baroda, for getting decree for specific performance. Considering the aforesaid fact, it is desirable that both the aforesaid suits are heard together. It is accordingly ordered that Special Civil Suit No.647 of 1998 as well as Special Civil Suit No.467 of 1999, both be heard together by the same Judge and both the suits may accordingly be disposed of by the same Civil Judge (Senior Division), so that there may not be any contradictory findings in each of the aforesaid suits.

3. Subject to the aforesaid directions, this revision is rejected. Rule is discharged. Interim relief is vacated. No costs.

29th January, 2004 ( P.B. Majmudar, J. )

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(apj)