

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 1179 of 1990****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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MAHATMA GANDHI COLONY CO.OP. HOUSING SOCIETY LTD. -**Appellant(s)****Versus****MOHANDAS ODHARMAL - Defendant(s)**

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Appearance :

MR PM RAVAL for Appellant(s) : 1,
MR MEHUL S SHAH for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 31/08/2006****ORAL JUDGMENT**

The present Appeal has been filed by the appellant herein, original-plaintiff challenging the judgment and decree dated 29.2.1990 passed by the learned Judge, City Civil Court at Ahmedabad

by which the learned Trial Judge dismissed the suit. It appears from the pleadings that the main grievance made by the appellant, original-plaintiff was that the respondent, original-defendant was trying to put up construction on the margin land of Tenement No. 15/2.

2. Shri Mehul S. Shah, learned advocate appearing on behalf of the original-defendant, has submitted that at the relevant time the defendant was the tenant of tenement No. 15/2 which is subsequently purchased by his client and even the appellant-Society has also accepted him as a member.

3. It appears that, Civil Application No. 2509 of 1990 was filed by the appellant-herein, original-plaintiff in the present First Appeal for interim relief and this Court granted ad-interim relief restraining the opponent from making any construction except erection of a

tarpaulin shed. Mr. Mehul Shah, learned advocate under instructions of his client, has submitted that the said interim relief be converted into a final order and that the opponent will not make any construction except erection of a tarpaulin shed, and will not put up any pucca construction on the margin land in question subject to obtaining prior permission from the competent authority. In that view of the matter, the present Appeal is allowed, and the judgment and decree, passed by the learned Trial Judge, is modified to the aforesaid extent and it is ordered that the respondent original-defendant is restrained from making any construction on the margin land in question except erection of a tarpaulin shed. However, it will be open for the opponent to put up any construction after obtaining prior permission from the competent authority in accordance with law. No costs.

Rmr .

[M.R. Shah, J.]