2025 INSC 1347

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. ……... OF 2025
(@ SPECIAL LEAVE PETITION (C) NO. 27549/2025)

MOHAMMADHANIF MOHAMMADIBRAHIM PATEL & ORS. — **APPELLANT(S)**

VERSUS

PALLAVIBEN RAJENDRA KUMAR PATEL & ORS. — **RESPONDENT(S)**

O R D E R

1. Leave granted.

2. Our order dated 13.10.2025 reads thus;-

> ***"1. Heard Mr. Nirav Majumdar, the learned counsel appearing for the petitioners.***
>
> ***2. We find the impugned order prima facie a bit unusual. The Appellate Court says that since the suit has been dismissed, no interim relief can be granted in an appeal. The High Court has affirmed such finding.***
>
> ***3. Issue notice returnable on 10.11.2025.***

4. Dasti service, in addition, is permitted.

5. Parties are directed to maintain status quo as regards the nature, character and possession of the suit property."

3. The respondents-original defendants although served with the notice issued by this Court yet have chosen not to remain present before this Court and oppose this appeal.

4. This appeal arises from the order passed by the High Court of Gujarat dated 10.06.2025 in Special Civil Application No.7298 of 2025 by which the petition filed by the appellant herein invoking the supervisory jurisdiction of the High Court under Article 227 of the Constitution came to be dismissed, thereby affirming the order passed by the appellate court declining to grant the relief prayed for by the appellants herein pending the final disposal of the Regular First Appeal.

5. It appears from the materials on record that the appellants challenged the legality and validity of two consent decrees passed by the Civil Court on the ground of fraud by instituting two Civil Suits i.e. (1) Special Civil Suit No. 1036 of 1999 and (2) Special Civil Suit No. 1035 of

1999, respectively.

6. Insofar as the Special Civil Suit No. 1036 of 1999 is concerned, the same came to be allowed, and the consent decree challenged therein was set aside. So far as the other suit is concerned i.e. Special Civil Suit No.1035 of 1999, the same came to be dismissed.

7. The appellants herein, being dissatisfied with the dismissal of the Special Civil Suit No. 1035 of 1999, preferred Regular Civil Appeal No. 205 of 2024 in the Court of District Judge, Vadodara.

8. In the said appeal, the appellants preferred an Exhibit-5 application, praying that pending the final disposal of the First Appeal, the original defendants may be directed to maintain *status quo*.

9. The appellate court declined to grant the relief as prayed for, saying that as the suit had stood dismissed thereby declining to grant the declaration as prayed for therein, no question of seeking any interim relief in the First appeal in the form of *status quo* till its final disposal would arise. The relevant observations made by the

first appellate court below Exhibit- 5 read thus:

> ***"In view of the above provision, the facts of the present case are that the claim made by the appellants in the above details has been rejected by the trial court. Thus, the order passed in the suit is not to be executed and the appellants are not adversely affected because the suit filed by the appellants has been rejected. The suit is not to be executed, therefore, there is no possibility of any substantial loss to the appellants. Thus, since this application lacks the elements mentioned in C.P.C. Order 41 Rule 5, the order mentioned in the said provision cannot be made..."***

10. We are constrained to observe that the translation provided as referred to above is extremely poor and incorrect.

11. In view of the aforesaid, the appellants went before the High Court and prayed for the necessary relief. The High Court also took the same view, saying that since the suit itself had been dismissed, no question thereafter would arise for the grant of any interim relief in the appeal preferred by the appellants.

12. Para 11 of the impugned order passed by the High Court reads thus:-

> **"*Thus, looking at from any angle, once plaintiff***

having lost in suit unless such judgement/decree set aside by appellate court, question of granting injunction would not arise."

13. With all humility at our command, we are of the view that both the first appellate court and the High Court are not right in taking such a view.

14. Just because the original suit came to be dismissed, that does not mean that in the pending appeal, the appellate court cannot grant appropriate relief as prayed for. Of course, the appellant has to make out more than a *prima facie* case for the grant of such relief on its own merits.

15. To illustrate, in a suit for specific performance concerning an immovable property, if the relief sought is not granted and the aggrieved party appeals, then an application seeking to maintain the *status quo* filed before the appellate court cannot be dismissed solely because the suit for specific performance stood dismissed.

16. What we do not approve is the statement of law that once the suit is dismissed, no interim relief could be granted pending the appeal preferred against such judgment and order

passed by the trial court. Further, in our opinion, the reliance placed by the first appellate court on Order XLI Rule 5, while declining to grant *status quo*, is grossly misplaced. This is because the considerations laid thereunder, such as that of causing substantial loss to the party applying for a stay, can only be considered when a stay is sought on the execution of a decree, which is not the case herein.

17. An appeal is considered a continuation of the original suit, and the appellate court has co-extensive power to grant appropriate interim relief to prevent irreparable injury and preserve the *status quo* pending the final disposal of the appeal.

18. The first appellate court can re-examine both questions of fact and law and may re-appreciate the evidence on record. Its powers are as extensive as the original court's, meaning it can reconsider the need for interim protection.

19. Interim relief is designed to aid the main relief and ensure that the proceedings are not rendered infructuous. It aims to prevent irreparable harm that might be caused while the case is pending final determination.

20. The grant of appropriate relief is a discretionary power of the appellate court, and the same must be exercised judicially based on the well-settled principles of a *prima facie* case, irreparable injury, and balance of convenience.

21. The court must weigh the potential injury to both parties. In a given case, the plaintiff whose suit has been dismissed may be in a position to highlight before the appellate court a palpable or gross error that might have been committed by the trial court and on the basis of which he may be in a position to argue that there are more than fair chances of his appeal being allowed.

22. In essence, the appellate court must independently consider the application for interim relief pending final disposal of the appeal on its own merits and the established legal principles. It should not just look into the final outcome of the suit.

23. In view of the aforesaid, the impugned order passed by the High Court is set aside. So also the order passed by the District Court dated 25.11.2024 is set aside.

24. We could have remitted the matter to the High Court for

fresh consideration. However, we deem fit to remit the matter to the District Court for fresh hearing of the original application-Exhibit-5 in Regular Civil Appeal No. 205 of 2024.

25. The appellate court shall hear all the parties concerned afresh and pass an appropriate order on its own merits in accordance with law.

26. Let Exhibit-5 application filed in Regular Civil Appeal No. 205 of 2024 be heard and disposed of within a period of two months from today.

27. Till the disposal of the Exhibit 5, referred to above, the interim order passed by this Court shall continue to operate.

28. The parties shall appear before the District Court on 1st December, 2025 and produce this order passed by us today.

29. On production of this order, the court concerned shall fix one particular date for fresh hearing of the Exhibit-5 application filed in Regular Civil Appeal No. 205 of 2024.

30. With the aforesaid, this appeal stands disposed of.

31. Pending application(s), if any, stands disposed of.

.....J.
[J.B.PARDIWALA]

.....J.
[K.V. VISWANATHAN]

New Delhi
18th November, 2025.