

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 666 OF 2017

(Arising out of SLP(C)No.39653 of 2013)

HEIRS OF JAMALJI AHAMDJI R.M.J.R.S.A. & ORS. Appellant(s)

VERSUS

HEIRS OF JAMALJI KARIRM NAGORW.(D)& ORS. Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

We are satisfied that the view taken by the High Court that the suit filed by the appellants will be barred by Order II rule 2 of the Code of Civil Procedure, is not sustainable. The earlier suit was filed for injunction while the subsequent suit is for eviction on distinct grounds.

In these circumstances, we allow this appeal, set aside the order passed by the High Court and remit the matter to the High Court for a fresh decision in accordance with law. No costs.

Pending applications, if any, shall also stand disposed of.

Parties are directed to appear before the High Court on 20<sup>th</sup> February, 2017.

.....J.  
(ADARSH KUMAR GOEL)

.....J.  
(UDAY UMESH LALIT)

New Delhi,  
JANUARY 18, 2017.

ITEM NO.9

COURT NO.11

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 39653/2013

(Arising out of impugned final judgment and order dated 24/10/2013 in CRA No. 187/2010 passed by the High Court Of Gujarat At Ahmedabad)

HEIRS OF JAMALJI AHEMDJI R.M.J.R.S.A.&OR Petitioner(s)

VERSUS

HEIRS OF JAMALJI KARIRM NAGORW. (D) & ORS. Respondent(s)

(With interim relief and office report)

Date : 18/01/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Anirudh Sharma,Adv.  
Mr. Abhaid Parikh,Adv.

For Respondent(s) Mr. Rahul Gupta,Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

In terms of the signed order, this appeal is allowed and the matter remitted to the High Court for a fresh decision in accordance with law. No costs.

(MAHABIR SINGH)  
COURT MASTER

(SUMAN JAIN)  
COURT MASTER

(Signed order is placed on the file)