

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 9049 OF 2026

RASILABEN AND ANOTHER

APPELLANTS

VERSUS

**DINESH DEUMAL HARANI
AND OTHERS**

RESPONDENTS

J U D G M E N T

ATUL S. CHANDURKAR, J

1. The appellants seek their impleadment as necessary parties to the suit filed by the first respondent¹. They having failed in such attempt, the appellants have preferred this appeal challenging the order dated 30.01.2024 passed by learned Single Judge of the Gujarat High Court².

2. The plaintiff claiming to be a tenant of an area admeasuring 2000 square feet of Plot No.63 with monthly rent of ₹1,000/- filed a civil suit seeking a declaration that his occupation of the said premises was in the capacity as a tenant and that he was entitled to enjoy such occupation without any reservation. Various other

¹ For short, 'the plaintiff'

² For short, 'the High Court'

prayers including a prayer for permanent injunction was also made in the aforesaid suit. The co-owner of the suit property Smt. Javerben Navinbhai Shah was impleaded as the first defendant along with two others in the suit. During pendency of the suit, the appellants on 23.08.2002 purchased the suit property from the erstwhile owners which included the first defendant in the suit. The husband of the first appellant Dr. Mukesh V. Hamipara filed an application vide Exhibit 88 seeking his impleadment as a defendant in the suit. However before the said application could be decided, Dr. Mukesh V. Hamipara expired on 11.05.2007. As a result, the said application for impleadment was not prosecuted any further and it came to be rejected. Thereafter on 13.08.2013, the appellants moved an application vide Exhibit 108 seeking their impleadment in the suit as defendants. In the application, it was stated that by virtue of a registered sale deed, the appellants had interest in the suit property. The application was opposed by the plaintiff and by order dated 03.11.2015, the learned Judge of the trial Court rejected the same. Being aggrieved, the appellants challenged the said order before the High Court. By the impugned order dated 30.01.2024, it was held that the appellants being neither necessary nor proper parties, they could

not be impleaded as defendants. Hence, this appeal.

3. Mr. Nachiketa Joshi, learned Senior Advocate for the appellants submitted that by virtue of sale deed dated 23.08.2002, the appellants acquired interest in Plot No.63. The plaintiff claiming to be a tenant in a portion thereof had filed the suit seeking a declaration in that regard. One of the appellants' vendors having been impleaded as a defendant in the suit, the appellants by virtue of their title were necessary parties to the suit. Inviting attention to the pleadings in the plaint as well as the reliefs sought therein, it was submitted that the presence of the appellants was necessary in the suit inasmuch as the plaintiff had sought a declaration as regards his status as a tenant-occupier. The earlier application not having been adjudicated on merits, the subsequent application making a similar prayer was tenable. The trial Court as well as the High Court erred in disallowing the prayer for impleadment made by the appellants. It was, thus, urged that the application for impleadment be allowed after setting aside the impugned orders.

4. On the other hand, Dr. Alex Joseph, learned counsel appearing for the plaintiff supported the impugned orders. According to him, the appellants were neither necessary nor proper

parties to the suit. The earlier application filed by the husband of the first appellant having been rejected, the present application filed vide Exhibit 108 was not tenable. The trial Court having exercised discretion and having refused to permit the impleadment of the appellants, no error was committed by it. The High Court rightly refused to exercise discretion in favour of the appellants. In fact, filing of successive applications by the appellants seeking their impleadment amounted to abuse of the process of law. To substantiate his contentions, learned counsel relied on the decisions in **Bibi Zubaida Khatoon Vs. Nabi Hassan Saheb and another³**, **M/s Garment Craft Vs. Prakash Chand Goel⁴**, **Kasturi Vs. Uyyamperumal and others⁵** and **Mumbai International Airport Pvt. Ltd. Vs. Regency Convention Centre & Hotels Pvt. Ltd. and others⁶**. He, thus, sought dismissal of the appeal.

5. Having heard the learned counsel for the parties and having perused the plaint and other relevant documents, we are of the view that the application for impleadment preferred by the appellants ought to have been allowed by the trial Court. In the suit preferred by the plaintiff seeking relief of declaration of his

³ 2003 INSC 608

⁴ 2022 INSC 37

⁵ 2005 INSC 228

⁶ 2010 INSC 362

status as a tenant-occupier of area admeasuring 2000 square feet of Plot No.63, the erstwhile owner of Plot No.63 was impleaded as the first defendant. During pendency of the suit, the predecessor of the appellants had purchased Plot No.63 by virtue of registered sale deed dated 23.08.2002. Consequently, the interest of the first defendant, who was the erstwhile owner of the suit property, stood transferred in favour of the appellants. The appellants, therefore, had sufficient legal interest to defend in the suit.

6. For considering the prayer for impleadment, it would be necessary to bear in mind the nature of reliefs sought by the plaintiff in the suit filed by him. In the plaint, it was pleaded that he was a tenant of area admeasuring 2000 square feet of Plot No.63 and was paying rent of ₹1,000/- per month. It was further pleaded that during his absence, the first defendant had taken steps to the prejudice of the plaintiff and there was a threat to the structure in question. A further apprehension was expressed that the Municipal Authorities were likely to demolish the suit property. For this purpose, the plaintiff sought a declaration that he was a tenant-occupier of 2000 square feet area on the ground floor and that he was entitled to enjoy it without reservation. In the absence of the owner of the suit property against whom such declaration

was sought, the relief prayed for could not have been considered. Undisputedly, the owner of the suit property and the predecessor-in-title of the appellants had been impleaded as a defendant in the suit. In this backdrop, the presence of the appellants as owners of the suit property was necessary in the suit and they were thus necessary parties. The learned Judge of the trial Court misdirected himself by observing that the dispute in the suit was between the plaintiff and the State authorities. It was further observed that no relief had been claimed against the owner of the property. In our view, these observations fail to take into consideration the first prayer in the plaint, which was the principal relief sought in the suit. We, therefore, find that the appellants are necessary parties to the suit for declaration of legal status as filed by the plaintiff.

7. Coming to the rejection of the earlier application filed by the predecessor of the appellants, it may be stated that Exhibit 88 preferred by the appellants' predecessor came to be dismissed on the ground that the same was not prosecuted after the death of the predecessor. The rejection was not on merits of the application but for technical reasons. Such rejection, therefore, would not preclude the legal heirs of the predecessor of the owner of the suit property from taking steps to protect their legal interest. Though it

was urged by the learned counsel for the plaintiff that the aspect of *res judicata* would be attracted, the same would not be so. Similarly, filing of another application during pendency of the earlier application is also not relevant as the subsequent application was not pursued much prior to the adjudication of the earlier pending application.

8. As regards the attempt made by the learned counsel for the plaintiff to dissuade the Court from interfering with the discretion exercised by the trial Court and affirmed by the High Court, it may be stated that once it is found that the appellants are necessary parties to the suit seeking declaration of legal status as tenant-occupier, such erroneous exercise of discretion resulting in legal prejudice to the appellants deserves interference. The decisions relied upon by the learned counsel for the plaintiff in this regard, therefore, do not assist his case.

9. For all these reasons, the order passed below Exhibit 108 by the learned 5th Additional Senior Civil Judge, Gandhidham in RCS No.486 of 2006 and affirmed by the High Court in Special Civil Application No.3385 of 2016 dated 30.01.2024 is set aside. Instead, the application below Exhibit 108 stands allowed and the appellants shall be impleaded as defendants in the aforesaid suit.

With a clarification that the suit shall be decided on its own merits without being influenced by any observations made herein, the Civil Appeal is allowed leaving the parties to bear their own costs. Pending interlocutory applications are also disposed of.

.....J.
[UJJAL BHUYAN]

.....J.
[ATUL S. CHANDURKAR]

NEW DELHI,
JULY 21, 2026.