

**IN THE COURT OF Civil Judge (Sr. Div.)-I, PIRO, BHOJPUR**  
**Title Suit No. 148 of 2022**

**Rita Devi & others**

.....Plaintiffs

**Versus**

**Inderdeo Singh and others**

.....Defendants

Sl. no.	Date of order of proceeding	Order with signature of the Court
1	2	3
10-03-2026	<p style="text-align: center;"><b><u>ORDER</u></b></p> <p>Attendance has been filed on behalf of both the parties through learned counsel.</p> <p>The instant record has been put up for order today over petition dated 30.07.2025, filed on behalf of plaintiff under Order 39 Rules 1 &amp; 2 read with Section 151 C.P.C against defendants. The learned counsel for defendants no. 9 and 15 has put no objection on the petition and defendants 1<sup>st</sup> party have not filed their rejoinder to the said petition of the plaintiff against the plaintiff's prayer.</p> <p>It is stated in the petition dated 30.07.2025, that this suit has been filed on behalf of plaintiff against defendants claiming 3/10th share in schedule 1 property, 3/20 share in schedule 2 property and 3/40 in schedule 3 property of the plaint. Defendant no. 1 has executed a sale deed no. 2271 dated 14.05.2025 in favor of Ritesh Kumar Singh and he is planning to sell the remaining land. He will suffer irreparable loss if the defendants are not restrained from alienating the suit land and on these grounds, the plaintiff prayed to grant injunction over the scheduled property.</p> <p>None of the defendants have filed show-cause/rejoinder to the said injunction petition inspite of repeated directions and lastly have been debarred from filing the same.</p> <p>Heard the arguments put forth by the ld. counsel of both sides and perused the case record. It is an established principle of law that before passing an order over a petition of injunction, the Court has to look into three important ingredients i.e. 1. Prima facie case 2. Balance of convenience and 3. Irreparable loss to the parties. The absence of any of the three ingredients will cause dismissal of the petition for injunction. The burden of proving the same is upon the petitioner-plaintiff.</p> <p><b>Prima facie case :</b> Prima facie case is a substantial question raised bona fide which needs investigation and a decision on merits. Satisfaction of Court that there is a prima facie case by itself is not sufficient to grant injunction, as opined by Hon'ble Supreme Court in case of <b>Dalpat Kumar vs. Prahlad Singh, AIR 1993 SC 276</b>. This case has been instituted by the plaintiff with prayer for claiming the share in the property of schedule 1,2 and 3. While pressing the petition, the learned counsel on behalf of plaintiff submitted that he has a good prima facie case in his favour, hence balance of convenience is also his favour. If the defendants are not restrained from alienating the land, the plaintiff will be put to irreparable loss which could not be compensated in terms of money, hence the prayer of the plaintiff be allowed and the order of interim injunction be passed in favour of the plaintiff, restraining the defendant from alienating or transferring the suit property till the disposal of the suit.</p> <p>On the other side the learned counsel of defendants stated that there is no prima facie case in favour of plaintiff. And thereby no balance of inconvenience to the plaintiff. While determining whether the prime facie case is made out, the relevant consideration is whether the evidence led by the plaintiff. It is possible to arrive at the conclusion in question and not whether that was the only conclusion that could be arrived at, on that evidence in this case there is question to be decided by this Court on the basis of evidence of plaintiff and parties. Thus, there is a prima facie case in favor of the plaintiff.</p>	


**Balance of Convenience:-** Balance of convenience implies that the comparative troubles or inconveniences which is likely to arise from the issuance of injunction are lesser than the ones arising from withholding the injunction.

Thus, on the basis of materials available on record it appears that the comparative mischief, hardship or inconvenience which is likely to be caused to the plaintiff may not be greater than which is likely to be caused to present defendant.

**Irreparable Loss :-** Here it is the duty of the plaintiff to prove that he will suffer irreparable loss if injunction is not granted. In the case of *Dalpat Kumar vs. Prahlad Singh*, (1992) 1 SCC 719 Cardinal principle for temporary injunction was considered where the court observed that the party seeking injunction will incur "irreparable injury" to the party seeking relief as a result of non-interference of court and that there is no other remedy except the injunction and the same is needed by the party to protect themselves from the apprehended injury or dispossession. Irreparable injury means the one that cannot be compensated by the way of compensation. The Court must exercise sound judicial discretion while granting or refusing the temporary injunction. The plaintiff has pleaded that the defendants are trying to alienate from the disputed land and the preservation of disputed property is essential.

So, from the discussions made above, it is crystal clear that the plaintiff-petitioner will have no irreparable injury, which can not be compensated in terms of money. In view of the discussions made above, I find that no irreparable loss is going to cause to the plaintiff, which can not be compensated. It is a partition suit and every co-sharer is having title upon every inch of joint property. Hence, considering all these aspects of this case, on the basis of discussions made above, I find & accordingly hold that the petition dated 30.07.2025 filed on behalf of the plaintiffs under Order 39 rules 1 & 2 is not having force of law and lacks merit. Accordingly, the petition dated 30.07.2025 is hereby rejected for want of any merit.

Put up on 08-04-2026 for further proceeding.

  
10-03-2026  
**Civil Judge (Sr. Div.)-I  
Piro at Bhojpur**