

**Regular Civil Suit No. 340 of 2021**

**ORDER BELOW EXHIBIT - 05**

- 1] Heard the Ld. Advocate for the plaintiff. Read the application and perused the records of the Court. The Ld. Advocate for the plaintiff has filed the present application under the provisions of Order 39 Rule 1 and 2 and Section 151 of the Code of Civil Procedure.
- 2] The plaintiff has filed the present suit seeking a permanent injunction in respect of the suit property comprising open land along with two built-up houses bearing House Nos. 1663 and 1664, each admeasuring 17.31 sq. meters, situated on Block No. 853, admeasuring 0-01-81 hectare, at Mouje Adalaj, District and Sub-District Gandhinagar.
- 2.1] The plaintiff's case is that the suit property was purchased by his deceased mother, Smt. Naraniben Ganeshbhai Mali, by a registered Sale Deed No. 3161 dated 07.07.2000. After her demise, the plaintiff claims to have become the absolute owner and is in lawful, peaceful, and continuous possession of the property. The plaintiff has also carrying on his family business, namely "Varun Lime Industries", from the suit property.
- 2.2] The plaintiff has stated that, the defendant recently purchased the adjoining rear land bearing Block/Survey No. 852/A and has since been threatening, harassing, and pressuring the plaintiff and his family members to vacate

the suit property, which enjoys valuable road frontage. It is alleged that the defendant is attempting to dispossess the plaintiff forcibly and to interfere with his peaceful possession and use of the property.

2.3] The plaintiff has contended that, the apprehending illegal dispossession and interference, the plaintiff has filed the present suit along with the application at Exhibit-5 under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, seeking an interim injunction restraining the defendant, his agents, and persons acting on his behalf from disturbing the plaintiff's peaceful possession, dispossessing him forcibly, obstructing his ingress and egress, or altering the existing status of the suit property during the pendency of the suit.

3] The Court has perused the documentary evidence produced by the plaintiff vide Mark- 3/1 to 3/22. The Exhibit-5 application is being proceeded with *ex-parte* against the defendant by virtue of the order passed in the Rojkam dated 22/04/2026 vide Exhibit-17.

4] Following Issues need to be decided for deciding the present application on hand –

- (1) Whether the Plaintiff proves that he has *Prima Facie* Case ?
- (2) Whether the Plaintiff prove that the balance of Convenience is in favour of the Plaintiff ?

(3) Whether the Plaintiff prove that if the injunction is not granted he would suffer Irreparable Loss ?

(4) What Order ?

5] My reply to above stated Issues are as follows-

- 1] In affirmative,
- 2] In plaintiff's favour,
- 3] In affirmative,
- 4] As per final order.

6] Reasons for the above mentioned decision are as follows –

6.1] The plaintiff has filed the present application under the provisions of Order 39 rule 1 and 2. While considering an application for temporary injunction, it is well-settled that the courts would pass an order thereupon having regard to: (i) Prima facie (ii) Balance of convenience (iii) Irreparable injury. The Honorable Supreme Court has observed that the other considerations which ought to be weighed with the Court while hearing the application or petition for the grant of injunctions are as : (i) Extent of damages being an adequate remedy; (ii) Protect the plaintiff's interest for violation of his rights though however having regard to the injury that may be suffered by the defendants by reason therefore ; (iii) The court while dealing with the matter ought not to ignore the factum of strength of one party's case being stronger than the others; (iv) No fixed rules or notions ought to be had in the matter of grant of injunction but on the facts and circumstances of each case- the relief being kept flexible; (v) The issue is to be looked from the

point of view as to whether on refusal of the injunction the plaintiff would suffer irreparable loss and injury keeping in view the strength of the parties' case; (vi) Balance of convenience or inconvenience ought to be considered as an important requirement even if there is a serious question or prima facie case in support of the grant; (vii) Whether the grant or refusal of injunction will adversely affect the interest of general public which can or cannot be compensated otherwise.”

6.2] Upon consideration of the pleadings, the documentary evidence produced by the plaintiff vide Mark 3/1 to Mark 3/22, and in the absence of any rebuttal from the defendant, who has been proceeded against ex parte, this Court is of the prima facie opinion that the plaintiff has placed sufficient material to show his lawful possession over the suit property. The documents produced on record prima-facie indicate that the plaintiff claims title through his deceased mother and has been in possession of the suit property. The allegations regarding interference and threatened dispossession by the defendant has remained unrebutted at this stage. If interim protection is refused and the plaintiff is dispossessed or his possession is otherwise disturbed during the pendency of the suit, he is likely to suffer irreparable loss and injury which cannot be adequately compensated in terms of money. The balance of convenience also lies in favour of preserving the existing state of affairs until the rights of the parties are finally adjudicated after trial. Accordingly, this Court is satisfied

that the plaintiff has made out a prima facie case for grant of temporary injunction. Hence, the following order is passed:

**:::-ORDER-:::**

- The application at Exhibit-5 is hereby allowed.
- The defendant, his agents, servants, representatives, or any person claiming through or under him are hereby restrained from interfering with the plaintiff's peaceful possession and enjoyment of the suit property or from dispossessing the plaintiff otherwise than by due process of law during the pendency of the suit.
- The defendant is further restrained from obstructing the plaintiff's entry and exit to the suit property and from altering the existing nature and status of the suit property till the final disposal of the suit.
- No order as to costs.

Order signed and pronounced in the open court today on 17<sup>th</sup> day of July, 2026.

Date : 17.07.2026  
Place : Gandhinagar

**[Hardik B. Trivedi]**  
6<sup>th</sup> Additional Civil Judge  
Gandhinagar (GJ1536)