

Order below exhibit-5

(1) This is an application filed by the Plaintiff under Order-39 Rule-1 & 2 read with Section-151 of the Code of Civil Procedure, 1908 for seeking temporary injunction restraining defendants from infringement of registered design of the plaintiff and for passing off such design. And directing defendant No. 9 to 11 to comply with removal of URL links from their platform placed by the defendants No. 1 to 8 until final disposal of this suit.

(2) The notices were issued by the Court and it were duly served to the defendants. The plaintiff has submitted document vide mark- 3/1 to 3/12. The defendants No. 9 to 11 have submitted their respective written statement. The defendant No. 1 to 8 have not filed their written statement hence, their rights have been closed and the WS filed vide Exh. 31 has been filed after period of limitation. The plaintiff has made compromise with defendant No. 4 and 6 vide compromise agreement produced vide Exh. 36 and 37.

Submission on behalf of plaintiff.

(3) Heard the Ld. Advocate for the plaintiff. He has argued as per application for temporary injunction. He further submitted the plaintiff is having registered design of described in Para 6, 20 and 22 of the plaint and the defendants have copied the said design which is described in the plaint and thereby he has infringed the registered

design of the plaintiff. He further contended that there is, prima facie, case in favour of the plaintiff against defendants and the balance of convenience is also in his favour. He further contended the plaintiff would suffer irreparable loss if the injunction would not be granted in favour of plaintiff. Hence prayed for temporary injunction.

Submission on behalf of defendants.

(4) Heard the the Ld. Advocate for the defendants No. 9 to 11.

The Ld. advocate for the defendant contended that they are intermediary and have made an application vide exh. 41, 58 and 23 for deleting them from the suit subject to their undertaking. Hence prayed for rejection of application for temporary injunction.

Principles governing grant of temporary injunction

(5) This is an application for temporary injunction and there are three basic principles for granting or refusing to grant temporary injunction i.e. prima facie case in favour of the party seeking injunction, balance of convenience in favour of such person and last there must be a irreparable loss which are likely to be caused to party if injunction is not granted to such person. And an injunction being an equitable remedy is always at the discretion of the court. However, such discretion must be based on sound judicial principles and guided by rules of Equity and the peculiar facts and circumstances of the case. Apart from three basic principles, the court is also required to see the conduct of party seeking equitable relief of temporary injunction since the granting of injunction is an equitable relief and is

drastic or serious order. There are two basic maxims of equity which are important to be considered at the time of deciding injunction application which are “He who seeks equity must do equity” and “He comes to equity must come with clean hand”.

Analysis

(6) Looking to the materials on record, it appears that the present suit filed by the plaintiff is for seeking for perpetual injunction restraining defendants from committing infringement of his registered trademark. The Court vide order dtd. 19/04/2025 passed an ad-interim injunction directing defendant No. 1 to 8 to restrain from infringement and passing off the registered design of ladies garment set under copies designs/articles/trade-dress and directed defendant No. 9 to 11 that they shall remove URLs from its websites for the defendant No. 1 to 8. It is averred in the plaint that plaintiff's product under unique registered design is sold across various e-commerce platforms including defendant's own website and platform. The defendant No.1 to 8 are infringing his registered design and they have copied the design of the plaintiff and thereby committed an infringement of registered design of the plaintiff. The plaintiff has submitted certificate of registration of design issued by Controller General of Patents, Designs and Trademarks. It is undisputed that plaintiff has registered design of his product. And the plaintiff is entitled to institute for suit for injunction restraining defendants from pirating his design. It is not the

case of the defendants that he has taken any defence against registered design of the plaintiff in view of Section 19 of The Design Act. So in view of the aforesaid fact this Court is of the opinion that the plaintiff has shown prima-facie case in the present case against the defendants. It is well-settled that in case of infringement of any intellectual properties, the appropriate remedy is the injunction restraining the defendants from committing infringement or pirating of any registered design. The defendant is alleged to have pirating the design of the plaintiff and sold his products through the platforms of the defendant No. 9 to 11 so that the balance of convenience is in favour of the plaintiff and if the defendants are not restraining from selling his products in breach of registered design of the plaintiff, the plaintiff would irreparable injury.

(7) So, in view of such position of law, this court inclines to grant temporary injunction in favour of the plaintiff against the defendants since the plaintiff has established prima facie case in his favour by showing he has equal share into suit properties. The plaintiff has also satisfied that if the temporary injunction is not granted to the plaintiff, he will have to suffer irreparable loss which could not be compensated in terms of money and the balance of convenience is also in favour of the plaintiff. Hence I hereby pass following order in the interest of justice.

ORDER

- The application filed by the plaintiff vide Exhibit-5 is hereby allowed.
 - The defendants No. 1 to 3, 7 and 8 and all acting on behalf of them are hereby restrained from using, selling or offering for sale or advertising in any manner including on the internet and e-commerce platforms, directly or indirectly dealing in impugned design Ladies Garment Set of the plaintiff or any identical or deceptively similar to the plaintiff's design until final disposal of the suit.
 - The defendant No. 9 to 11 are hereby ordered to immediately lock and suspend all infringing URL links where the infringing design product of the defendant No. 1 to 3, 7 and 8 are displayed, advertised on their E-commerce platform which is identical or deceptively similar to the plaintiff's design until final disposal of the suit.
 - Cost shall be the cost in the cause of the suit.
- Pronounced and signed in open court on February 17th, 2026.

Date : 17.02.2026 **[Amitkumar Narendrabhai Dave]**

Place: Surat

Commercial Court & 8th Addl.

District Judge, Surat

UIC No.GJ00807.