

ORDER BELOW EXH.6  
IN H.R.P.SUIT NO.249 OF 2019

CORAM: MR. A. H. NARANG, JUDGE.

O R D E R

(1) The plaintiff has filed the present application to get temporary injunction against the defendant.

(2) The brief facts of the present application is as follows:-

The present application has been filed by the plaintiff for the property mentioned in Para-1 of the plaint stating that, the said suit property was rented to the father of the plaintiff before the birth of the plaintiff and his family members. After the demise of father of the plaintiff and also his brothers and sisters, only one son Vivian D. Sylva was adopted by the plaintiff in the year 2015 and he is residing with the suit premises at present and the suit premises was rented at the rate of Rs.55/- per month and was paid to the defendant and the receipt of the same was given by the defendant, but after 2004, the defendant was not giving the receipt for the rent paid by the plaintiff and plaintiff when demanded the receipt the defendant said that he will give the same within short time and along with that cheque of plaintiff was given to the defendant for the

period of 01.04.2016 to 31.03.2019, the said cheque has not deposited by the defendant till now and defendant in connivance with other people is threatening the plaintiff to vacate the suit premises. Hence, the present suit along with this application is filed by the plaintiff against the defendant to get the relief claimed in Para-8(A) of this application.

(3) On service of the notice, the defendant has appeared through his Advocate and filed his Reply vide Exh.18 in which he has denied the averments made by the plaintiff and has further stated that, the say of the plaintiff regarding V.D.Sylva is false and fabricated. He is admitting about the rent being paid by father of the plaintiff and also denying about the rent being paid by the plaintiff after 2004. Rest of the say of the defendant against the plaintiff is in denial and has further stated that the prayer/relief claimed in this interim injunction is identical to the plaint/ relief claimed in the plaint.

(4) Heard accordingly. On perusal of fact and record along with the documents produced by plaintiff to show that at present there exists relationship of land lord and tenant between the parties. Further the document produced by plaintiff is of the year 2004 which is rent receipt for the year 2003 and 2004 and for the say of plaintiff about his cheque which is given to defendant is not provided the details and also no

details for the money order sent by plaintiff is on the record. Granting relief under this order is wholly equitable in nature and party invoking the jurisdiction has to show that he was not at fault. In the present case, the plaintiff has not prima-facie produce any evidence regarding the rent is fully paid till filing of the suit and the fact regarding the details of cheque or any other prima facie evidence . The plaintiffs have filed the present application for getting injunction against the defendant but looking to the relief of plaint as well as the relief of present application, it reveals that the plaintiffs have asked same relief in the suit as well as present application and if this application is allowed then the plaintiffs will get the final relief at the interim stage and this view is also supported by the judgment of our own Hon'ble High Court of Gujarat reported in 1997 (2) G.L.H. Page No.767 in the case of Jamnagar-Rajkot Gramin Bank Officers' Association and Anr. Vs. Jamnagar-Rajkot Gramin Bank and Anr. Therefore, the reliefs the asked by the plaintiff in the present injunction application cannot be granted at this stage without considering the evidence. At this juncture, the plaintiff has failed to bring nothing on record to prove that denial of grant of injunction would how cause an irreparable loss to them. Thus, this court is of the view that the plaintiff has failed to show any prima facie case in his favour, balance of convenience is not in

the favour of the plaintiff as he has failed to show that there is real and imminent danger to the property by the defendants and also the question of irreparable loss is not met out due to lack of evidences on record and therefore it can be stated firmly that also there is no any irreparable injury is in favour of the plaintiff. Therefore, the plaintiffs have no any prima facie case and balance of convenience is not in favour of the plaintiffs and the plaintiffs will not suffer any irreparable loss if the present application will not be granted in their favour. Hence in the interest of justice, I pass following order:

: O R D E R :

(1) *The present application is hereby rejected.*

(2) *No order as to costs.*

Signed and pronounced in the open court today i.e.  
On 30th September, 2019.

Place: Ahmedabad.

Date: 30/09/2019.

(A. H. Narang)  
Chamber Judge, UIC No.GJ01312,  
Small Cause Court,  
Ahmedabad.