

**:: Order Below Exhibit 5 ::**

1. The present suit has been filed by the plaintiff seeking declaration and permanent injunction in respect of agricultural lands bearing Survey No. 453 and Survey No. 452/6 (Block No. 479) situated at Galthara, Taluka Bijapur (now Mansa), (hereafter referred as suit property) along with an application at exhibit 5 for temporary injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, to restrain the defendants from selling, transferring, mortgaging, gifting, or otherwise alienating the suit properties and from interfering with the plaintiff's peaceful possession.
2. The plaintiff claims that the defendants had mortgaged the suit lands to him in the year 1975 and subsequently executed a sale deed for Survey No. 453 on 07.05.1989 for ₹27,000/-, and for Survey No. 452/6 on 30.07.1993 for ₹34,000/-, transferring ownership and possession of the lands to the plaintiff. The plaintiff asserts uninterrupted and continuous possession for the last 40 years, during which he has cultivated the lands, paid land revenue, and used his own water sources for irrigation. The defendants continue to appear in the revenue records due to the land being recorded under new tenure and that the defendants are now attempting to transfer the property to third parties.
3. The present plaintiff has claimed that the cause of the present suit arose when plaintiff approached the defendants to get documentation done for getting the land transferred from new tenure to old tenure and get the

documentation done so that defendant can do a proper sale deed in favour of plaintiff the defendant refused and threatened the plaintiff that they will sell the property to a third party as still the land is in their name.

4. The plaintiff claims that the defendants have no valid title or ownership rights, and seeks an injunction to prevent further alienation of the property, arguing that failure to grant such relief would result in irreparable harm and multiplicity of legal proceedings. Further Ld. Advocate for the plaintiff have relied on -
  - Sadharam V. Gram Panchayat CRN. 441 of 1982 D/-6-1 1984
  - Hiranand and Ors. V. State of Himachal Pradesh
5. Despite notice being served and ample opportunity given, the defendant failed to appear before the court or file any reply and therefore through order dated 18.02.2025 below the exhibit court has ordered to proceed with the suit ex parte.
6. Read the application and written arguments. Perused the records of the case. Heard learned Advocate appeared for the plaintiff.
7. In case of ***Kashinath Sansthan v. Srimad Sudhindra Thirtha Swamy, AIR 2010 SC 296*** hon'ble court prescribed the criteria for temporary injunction as follows: "In order to grant an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well-settled that when a party fails to prove prima facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would

not be material at all, that is to say, if that party fails to prove prima facie case to go for trial, it is not open to the court to grant injunction in his favour even if he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction is granted.

8. Based upon the averments made in the application, the following points arise for deciding this application:
  - a. Whether the plaintiff has a prima facie case in their favor to grant a temporary injunction?
  - b. Whether the plaintiff would suffer irreparable injury which cannot be compensated in terms of money, if interim relief, as prayed for, is not granted ?
  - c. Whether the balance of convenience is in favor of the plaintiff?
  - d. What order?

The answers to the above points are as under:

- a. In Affirmative.
  - b. In Affirmative.
  - c. In Affirmative.
  - d. As per final order.
9. Reasons for arriving at the conclusion are discussed as under Points No; 1,2,3. As all the points are inter connected they are hereinafter discussed jointly for the sake of convenience .

10. At the stage of deciding the application for temporary injunction, the Court is not required to go into the merits of the case in detail. It is a well settled principle that the power is discretionary and is to be exercised on sound judicial principles. Keeping the aforesaid aspects in mind and considering the pleadings of the parties, if the facts of the case are examined, then, it is evident that the dispute between the parties revolves around the suit property ie. Whether the plaintiff has right over it or not Plaintiff has alleged that the defendant is trying to take away their right over suit property without due process and therefore they pray for relief against the defendant as per Order 39 Rule 1 and 2 of the CPC.
11. On the other hand the defendants have failed to appear before the court or file any reply.
12. At this juncture the main question to be decided is whether or not the plaintiff has a prima facie case and whether or not they will suffer irreparable loss if injunction is not granted.
13. Further, looking at the overall legal and factual situation of the present suit,
14. The plaintiff has produced documents, including articles of sale and statements of witnesses, which support his claim of long-standing possession and cultivation of the suit lands. The sale transaction and delivery of possession are pleaded with clarity and supported by documentary evidence. Though not registered under the Transfer of Property Act, the same may be looked into prima facie for the limited purpose of establishing possession and the need for interim protection.

Therefore, the Court is satisfied that the plaintiff has made out a prima facie case worthy of trial.

15. If the defendants are not restrained, there exists a clear possibility that they may alienate or transfer the land to third parties taking advantage of their names being reflected in the revenue records, which may not only cause multiplicity of proceedings but also result in irreparable loss to the plaintiff who claims lawful possession . Such injury cannot be compensated adequately in terms of money, especially in relation to agricultural land under active cultivation for decades.
16. The balance of convenience clearly lies in favour of the plaintiff who is in peaceful and continuous possession of the land and is cultivating it using his own resources. On the other hand, the defendants have not come forward to deny or refute the plaintiff's claim, nor have they asserted any present act of possession or cultivation. If interim protection is not granted, the plaintiff would suffer serious prejudice, whereas no harm would be caused to the defendants by maintaining the status quo. Thus, the balance of convenience favours the plaintiff.
17. Based on the foregoing discussion, it is evident at a prima facie level that all three essential elements for the grant of an interim injunction are conclusively established in favor of the plaintiff. *In Paidsetti Bhanknarayna v. Paidsetti Rajeshwar Rao, AIR 1999 Ori 92 the Court observed that it is not necessary that the plaintiff should establish his title to the property in suit. It is enough for him to show that he has a fair question to raise as to the existence of the right which he alleges and can satisfy the Court that the property in dispute should be*

*preserved in its present actual condition until such question be disposed of.*

18. In the present circumstance and In view of the above discussion and considering the principles under Order XXXIX Rules 1 and 2 CPC, this Court finds it just and proper to grant ad-interim relief relying upon the material on record in the interest of Justice the following order is passed.

**:: ORDER ::**

1. The present application seeking ad-interim relief is hereby allowed.
2. The parties are hereby ordered to maintain Status quo of the property and the title holders (defendants) are directed not to to sell, mortgage, alienate, transfer, or create any kind of interest in property to any third person in any manner whatsoever during the pendency of the suit.
3. No order as to costs.

Signed and pronounced in the open court today ie. 15th July, 2025

Date: 15/07/2025

Place: Mansa

**(Ms. Damini Dixit)**  
Principal Civil Judge, Mansa  
(UIC GJ01698)