

**IN THE COURT OF CIVIL JUDGE (JUNIOR DIVISION) AT KALOL,
DIST. GANDHINAGAR.**

Regular Civil Suit No. 302 of 2024

ORDER BELOW EXHIBIT 5

1. Background and Facts:-

The plaintiff has filed the present application seeking temporary injunction restraining defendants Nos. 1 to 6 from transferring, alienating, or creating third-party interests in the agricultural land situated at Moje Isand, Taluka Kalol, District Gandhinagar, bearing Khata No. 618, Block/Survey No. 1037 (Old Block/Survey No. 37), admeasuring 0-53-20 Ha-Are-sq.mtr., assessment valued ₹3.60. It is the case of the plaintiff that defendant No. 1 executed a registered Agreement to Sell dated 19.04.2012 for his half share in the land for ₹6,00,000/-, and that the entire consideration has been paid. The plaintiff contend that despite full payment, defendant No. 1 and his heirs executed a registered sale deed dated 03.09.2024 in favour of defendants Nos. 2 and 3 (Registered sale deed No. 13995/2024), thereby committing fraud and breach of trust. Hence, the plaintiff has filed this suit for specific performance along with the present injunction application.

2. Legal Standard and Judicial Precedent:-

The principles governing temporary injunctions under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure require that the applicant must establish: (i) a prima facie case, (ii) the balance of

convenience in his favour, and (iii) irreparable injury if the injunction is not granted. These principles have been reiterated by the Hon'ble Supreme Court in *RAMAKANT AMBALAL CHOKSI v. HARISH AMBALAL CHOKSI & OTHERS*, 2024 INSC 913, where it was held that the existence of an agreement or claim alone does not establish a prima facie right and that injunction being an equitable relief cannot be granted unless all three elements coexist.

3. Issues for Determination:-

1. Whether the plaintiff has established a prima facie case for grant of temporary injunction?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff will suffer irreparable loss or injury if the injunction is refused?
4. What order?

4. Findings:-

Issue Nos. 1, 2 & 3 – In Negative.
Issue No. 4 – As per final order.

5. Reasons and Findings:-

(a) Prima Facie Case:-

The plaintiff has produced the registered Agreement to Sell dated 19.04.2012 and vouchers evidencing payment. However, the agreement is admittedly without possession. The plaintiff has not

explained the delay in filing the suit after more than a decade, nor have they objected to the registered sale deed and mutation entry made in favour of defendants Nos. 2 and 3 on 03.09.2024. Such inaction amounts to acquiescence. Moreover, the plaintiff has not demonstrated continuous readiness and willingness as required under Section 16(c) of the Specific Relief Act, 1963. Thus, no strong prima facie right is established warranting protection by injunction.

(b) Balance of Convenience: -

The suit property has already been transferred by a registered sale deed in favour of defendants Nos. 2 and 3. Granting an injunction would disturb an existing transfer and affect third-party rights. On the contrary, refusal of injunction would not defeat the plaintiff's right to seek specific performance. Hence, the balance of convenience lies against the plaintiff.

(c) Irreparable Injury:-

The plaintiff's rights, if proved, can be enforced through specific performance or damages. The alleged harm is neither irreparable nor incapable of being compensated in money. Consequently, the plaintiff failed to establish the third requirement.

6. Legal Position:-

In view of the decisions in *RAMAKANT AMBALAL CHOKSI v. HARISH AMBALAL CHOKSI & OTHERS*(2024 INSC 913), it is settled law that failure to establish even one of the three conditions

disentitles a party to interim injunction. In the present case, it is the view of this Court that all three conditions are absent; therefore, this Court is not inclined to exercise its discretionary jurisdiction in favour of the plaintiff. Hence, the following order is passed:-

:: ORDER ::

- (a) The application filed by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, is hereby REJECTED.
- (b) It is held that the plaintiff has failed to establish a prima facie case; the balance of convenience does not lie in his favour; and no irreparable loss has been shown.
- (c) The plaintiff may, however, pursue his claim for specific performance in the main suit in accordance with law.
- (d) No order as to costs.

Signed and Pronounced in the open court today i.e. 28th day of October, 2025.

Date :28.10.2025.

Place :Kalol

//p.j.surti//self//

(Priyanka Jaymin Surti)
Additional Civil Judge, Kalol,
Dist. Gandhinagar
UIC Code No.GJ01570.