

Regular Civil Suit No.36/2025

Order below below Exhibit-5 & Exhibit - 10
(Vanrajbhai Pravingbhai Chavda Vs. Virabhai Devdanbhai Chaiya & others)

1. The plaintiff has filed the present suit against the defendant No.1 viz. Virabhai Devdanbhai & defendant No.2 i.e. the State of Gujarat/Dy. Collector and alleging as under:

2. That plaintiff and defendant No. 1 belongs to same Tribe and are acquainted with each other. That the defendant No. 1 is the owner of lands bearing Revenue Survey no. 220, 221, 222, 224 lying being and sitaute at village Khokharda, Taluka Vanthali (hereinafter referred to as suit land for the sake of brevity). The total area of the said suit land is 5-96-51 Hectre-Are-Sq.Mt. and as defendant No. 1 wanted to sale the suit said land admeasuring 36.14 *Vigha* and had agreed to sell it to the plaintiff. That the revenue record reflected the name of Labhuben, mother of defendant No. 1 along with the defendant No. 1. The said defendant No.1 told the plaintiff that his mother has expired on 25/01/2023 and now the defendant No.1 alone is the owner of the said agricultural land and he is in the process of bracketing the name of Labhuben. On the assurance of defendant no.1 the plaintiff entered into the sale transaction i.e. agreement to sell with the defendant No. 1 and part sale consideration of Rs.11,01,000/- was pocketed by the defendant No.1 from the plaintiff on 09/04/2025 and the defendant no.1 has executed agreement to sale before the Notary on 11/04/2025. After the said agreement to sale, the defendant No.1 with a view to post entry No. 3241 executed and affidavit, which being having come to the notice of the plaintiff, the plaintiff on 12/05/2025 issued notice to defendant No. 1 as well as raised the objection in Mamlatdar Office. Thus the defendant No. 1 after pocketing the huge

consideration from the plaintiff with a view to resile from the agreement to sale opted for a mechanism to mutate the name of his legal heirs during his live time against the agreement to sale and hence the cause of filing of the present suit has arisen and therefore the present suit is filed for permanent injunction against the defendant No. 1 as well as the defendant no. 2 viz. Dy. Collector praying to restrain both these defendants from creating any right title or interest against the said agreement to sale as well as from mutating the name any person in revenue record on the basis of any application by defendant No. 1 or any other person. During the pendency of the said suit the present interim injunction application is filed praying to restrain the defendant No. 1 and 2 from creating third party interest and maintaining status-quo qua the suit property.

3. The said suit was registered as Regular Civil Suit and notice of said interim injunction application was issued to defendants who appeared through their Ld. Advocate. The defendant No. 1 filed the written statement vide Exhibit-13, refuting the agreement to sale on the ground that the same is not registered document nor properly stamped and also the suit property is ancestral property and further defendant No. 1 has not received any consideration. Further it is contended by the defendant no. 1 that defendant No. 1 was in need of money to purchase the house for her daughter Puriben children to make them study at Junagadh and therefore the plaintiff fraudulently got his signatures on the said agreement to sale as a security for the money to be advanced to defendant no. 1. However the defendant No. 1 has not received any amount from the plaintiff. It is further contented by the defendant no. 1 that though the alleged agreement to sell is executed on 09/04/2025 the same is notarized on 11.04.2025 making the same a suspicious document. Thus the defendant resiled from a agreement to sale and contended that plaintiff was aware of the fact that Labhuben has

died and procedure to mutate the names of wife and daughters of defendant No. 1 is under progress. In spite of the plaintiff having full knowledge of the situation, the plaintiff has not opted to join the other co-owners of the suit property and hence ultimately contended that suit is barred for non joinder of necessary party and hence prayed to reject the present interim injunction application.

4. Defendant No. 2/State appeared through Government Pleader and filed its written statement vide Exhibit-27, alleging the defendant No. 2 is machinery of State and the lis being between private individual, the defendant no. 2 can not be restrained from performing its duty and hence prayed to reject the present interim injunction application.

5. **Documentary Evidence**

The plaintiff in support of his interim injunction application has relied on following documentary evidence.

Sr. No.	Document	Mark
1.	Agreement to sale dated 11/04/2025	4/1
2.	Extract of village form No. 7	4/2 to 4/5
3.	Plaintiff's objection against Entry No. 3241	4/6
4.	Notice given by defendant No.1	4/7
5.	Agreement to sale dated 09/12/2024	4/8
6.	Notice given by plaintiff to defendant No.1	21/1
7.	Post Slip	21/2
8.	Lis pendency dated 02/06/2025	21/3
9.	Bank Statement of Plaintiff	19/1
10.	Case status of Criminal Enquiry	19/2
11.	New paper Notice	19/3
12.	Copy of entry No. 3239	19/4

6. The defendant No.1 in support of his defence has relied

upon following documentary evidence.

Sr. No.	Document	Mark
1.	Notice given by defendant No.1	14/1
2.	RRT procedure notice	14/2 to 14/5
3.	Extract of village form No. 6	14/6 to 14/13

Arguments

7. The plaintiff has filed his written argument to the application of Exhibit-5 vide Exhibit-20. The same are taken into consideration.

8. The defendant no.1 in support of his defence his argument is as under.

(I) The suit is barred for non joinder of necessary party and suit land is ancestral land. The plaintiff has not verified the origin nor has checked titles of the suit property and therefore in absnece of necessary party when the suit itself is not tenable the interim injunction cannot survive.

(II) The agreement to sale is un-registered agreement to sale and hence without main relief of specific performance ancillary relief of permanent injunction cannot be granted.

(III) The said injunction is prayed against the Government/Machinery of State from exercising its power, and hence the same is hit by Section 41(A)(B) of the Specific Relief Act, 1963 and therefore also injunction cannot be granted.

(IV) The agreement to sale itself is suspicious document as the boundaries in the said agreement to sale are not as per the boundaries shown in the village form/revenue extract together with the fact that the said agreement to sale is not registered on the day of its execution . Thus plaintiff have played fraud with defendant no.1 and no relief of injunction can be granted to the party who is not coming before the Hon'ble court with clean hands. It is further contented by the Ld. Advocate for the defendant that no sale consideration or any amount is received by the defendant No. 1 and the agreement to sale reflects the same value for agricultural and non-agricultural land, which is against the general principles governing the sale of land. It is argued by the Ld. Advocate for the defendant No. 1 that the agreement to sale reflects the condition of delivery of possession prior to execution of sale deed which itself is suffice to prove that fraud is being played on the defendant No. 1 and thus ultimately the Ld. Advocate for the defendant No.1 has prayed to reject the said injunction application.

9. The defendant No. 2 has not argued but said that lis is between the private individual, wherein the State/Collector has nothing to do and therefore the Collector can not be prevented from exercising its jurisdiction and hence prayed to reject the said interim injunction application.

10. Looking to the aforesaid pleading and documents following points of determination arises before the Hon'ble Court qua this interim injunction application.

Issues/Points of Determination

1. Whether the plaintiff proves that plaintiff has prima-facie case ?
2. Whether the plaintiff proves that balance of convenience lies in favour of plaintiff ?
3. Whether the plaintiff proves that irreparable loss will be caused to the plaintiff, if injunction is not granted ?
4. What order ?

11. The following are the answers to the above Issues/points of determination, in light of the available evidence on record.

Findings

- In Negative.
- In Negative.
- In Negative.
- As per final order.

∴ REASONS ∴

12. Before I incept to give the reasons to the said issues/point of determination, the following admitted position is required to be placed on record. The same is as under:

Admitted Position

- (i) The agreement to sale (Mark 4/1) is un-registered agreement to sale.
- (ii) The plaintiff has not prayed for specific performance of agreement and only prayed for the relief of declaration and permanent injunction.

(iii) The plaintiff has prayed for injunction against the competent authority from exercising its jurisdiction.

(iv) The plaintiff, at the time of filing the suit, has opted for the procedure of Order 2 Rule 2 of CPC 1908 reserving his right to file the suit for specific performance but thereafter has not pressed the said application and has not amended the plaint to include relief of specific performance of agreement to sale.

With this admitted position the present interim injunction application is to be decided.

Prima Facie Case

14. Issue No.1 speaks as to whether plaintiff proves that plaintiff has prima-facie case.

To address this issue the relevant prayer clause of the plaint is to be looked into. The plaintiff has prayed for mere declaration and permanent injunction but not for specific performance of agreement to sale at Mark 4/1. When the plaintiff was aware of the fact that defendant No. 1 has opted to mutate the names of his legal heirs during his life time impliedly refuting the agreement to sale then he ought to have incorporated the relief of specific performance in the plaint, but plaintiff has failed to do so. The fact of agreement to sell being un- registered document warrants this Hon'ble Court to quote Section 17 of the Registration Act, 1908 (Gujarat Amendment - Guj Act 7 of 1982, S.2). The same reads as under

Section 17 (1)(aa) - instrument which purport or operate to effect any contract for transfer of any immovable property

Thus agreement to sale is made compulsory registrable for the State of Gujarat. The only exception to this is when the suit is filed for specific

performance as laid down under Section 49 of the Registration Act, 1908. In the present case admittedly the suit is not for specific performance but for mere declaration and permanent injunction. Thus this fact prevents Court from taking a note of the agreement to sale at Mark 4/1, being un-registered document as the suit is merely for declaration and permanent injunction. Now at this juncture it is vital to take a note of the observation made by the **Hon'ble Supreme Court** in the matter of **Balram Singh Versus Kelo Devi** reported in **2022 (0) AIJEL-SC 69876** wherein the **Hon'ble Supreme Court** has in **para 6** observed as under.

6. Having conscious of the fact that the plaintiff might not succeed in getting the relief of specific performance of such agreement to sell as the same was unregistered, the plaintiff filed a suit simplicitor for permanent injunction only. It may be true that in a given case, an unregistered document can be used and/or considered for collateral purpose. However, at the same time, the plaintiff cannot get the relief indirectly which otherwise he/she cannot get in a suit for substantive relief, namely, in the present case the relief for specific performance. Therefore, the plaintiff cannot get the relief even for permanent injunction on the basis of such an unregistered document/agreement to sell, more particularly when the defendant specifically filed the counter-claim for getting back the possession which was allowed by the learned trial Court. The plaintiff cleverly prayed for a relief of permanent injunction only and did not seek for the substantive relief of specific performance of the agreement to sell as the agreement to sell was an unregistered document and therefore on such unregistered document/agreement to sell, no decree for specific performance could have been passed. The plaintiff cannot get the relief by clever drafting.

Thus when the substantive relief of specific performance is not prayed and merely permanent injunction has prayed for, then the same is nothing but a clever drafting and Court can not come to the aid of granting permanent injunction on such un-registered agreement to sale.

16. Further, the conduct of the plaintiff is to be taken note of while granting or rejecting injunction. The same warrants the Hon'ble Court to quote Section 41(i) of The Specific Relief Act, 1963. The same reads as under:

Section 41 Injunction when refused:

(a) xxxxxxxxx

(b) xxxxxxxxx

(c) xxxxxxxxx

(d) xxxxxxxxx

(e) xxxxxxxxx

(f) xxxxxxxxx

(g) xxxxxxxxx

(h) xxxxxxxxx

(i) when the conduct of the plaintiff or his agents has been such as to disentitle him to the assistance of the court;

17. Thus when conduct of the plaintiff is such that it disentitle him the assistance of the Court, then injunction ought not to be granted. It makes the Hon'ble Court to refer to the observation made by **Hon'ble Apex Court** in the matter of **Ambalal Sarabhai Enterprise Ltd Vs. Ks Infraspace Llp Limited** reported in **AIR 2020 SC 307** wherein in **para. 15** Hon'ble Apex Court has observed as under :

15. Chapter VII, Section 36 of the Specific Relief Act,

1963 (hereinafter referred to as the Act) provides for grant of preventive relief. Section 37 provides that temporary injunction in a suit shall be regulated by the Code of Civil Procedure. The grant of relief in a suit for specific performance is itself a discretionary remedy. A plaintiff seeking temporary injunction in a suit for specific performance will therefore have to establish a strong prima-facie case on basis of undisputed facts. The conduct of the plaintiff will also be a very relevant consideration for purposes of injunction. The discretion at this stage has to be exercised judiciously and not arbitrarily.

Thus as per the observation made by **Hon'ble Apex Court** in the matter of **Ambalal Sarabhai Enterprise Ltd Vs. Ks Infraspac Llp Limited** reported in **AIR 2020 SC 307** the conduct of plaintiff also plays vital role while granting or rejecting discretionary and equitable relief like injunction. The same warrants Hon'ble Court to dwell into conduct of the plaintiff. The plaintiff, at the time of filing the plaint has opted to reserve his right to file suit for specific performance by making an application under Order 2 Rule 2 of CPC 1908 but has not pressed the same without amending the plaint to include substantive relief of specific performance. This conduct of the plaintiff skipping the substantive relief of specific performance and only praying for permanent injunction and declaration and not amending the plaint itself is suffice prove the malafide on the part of the plaintiff to pocket injunction without opting for any substantive relief of specific performance. Thus when the conduct of the plaintiff is to be taken into account while deciding the interim injunction application as per the law laid down by **Hon'ble Apex Court** in the matter of **Ambalal Sarabhai Enterprise Ltd Vs. Ks Infraspac Llp Limited** reported in **AIR 2020 SC 307** then such malafide conduct dis-entitles the plaintiff any assistance of the court warranting the court to address the issue of prima-facie case in Negative.

18. Further the plaintiff has prayed for injunction against the Government machinery i.e. State and the issue - whether the injunction can be granted against the competent authority on exercising its jurisdiction - warrants this Hon'ble Court to refer Section 41(b) of the Specific Relief Act, 1963. The same is reads as under:

Section 41 Injunction when refused -

A injunctionn cannot be granted

(a) xxxxx

(b) ***to restrain any person from instituting or prosecuting any proceeding in a court not subordinate to that from which the injunction is sought***

(c) xxxxx

(d) xxxxx

(e) xxxxx

(f) xxxxx

(g) xxxxx

(h) xxxxx

(i) xxxxx

(j) xxxxx;

19. Thus injunction can not be granted to restrain any person from instituting or prosecuting any proceeding in any Court not subordinate to this Court. Admittedly the Deputy Collector exercising its jurisdiction under the Bombay Land Revenue Code, is not subordinate to this Civil Court and hence no relief of preventing the competent authority from exercising its jurisdiction can be granted, as the same would tantamount to encroaching upon jurisdiction of Competent Authority.

20. At this juncture, it becomes very pertinent to refer to the law laid down by **Hon'ble Supreme Court** in the matter of **Cotton Corporation Of India Limited Versus United Industrial Bank Limited** reported in **1983 (0) AIJEL-SC 6940**, wherein the **Hon'ble Supreme Court** in **para 7** has observed as under :

7. Part III of the Act bears the heading 'Preventive' Relief' and fasciculus of sections therein included provide for injunctions generally. Section 36 provides that preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual. Section 37 specifies the nature, and character of temporary and perpetual injunctions. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court, and they may be granted at any stage of a suit, and are regulated by the Code of Civil Procedure, 1908. Permanent injunctions can only be granted by the decree made at the hearing and upon merits of the suit and thereby, defendant in the suit is perpetually enjoined from assertion of a right or from commission of an act, Which would be contrary to the rights of the plaintiffs. Section 38 sets out situations in which the Court can grant a perpetual injunction to the plaintiff to prevent the breach of an obligation existing in its favour, whether expressly or by implication. Section 38 is thus an enabling, section which confers power on the Court to grant perpetual injunction in situations and circumstances therein enumerated. Section 41 caters to the opposite situation. It provides that an injunction cannot be granted in the situation and circumstances therein set out. The Corporation relies on Section 41 (b) in support of its contention that the Court had no jurisdiction to grant temporary injunction

because perpetual injunction could not have been granted by the Court in terms in which temporary or interim injunction was sought.

Section 41 (b) reads as under :-

"41. An injunction cannot be granted :-

(a) ...

(b) to restrain any person from instituting or prosecuting any proceeding in a Court not subordinate to that from which the injunction is sought; The predecessor of Section 41 (b), Section 56 (b) of the Specific Relief Act of 1887 repealed by 1963, Act read as under :

"56. Injunction cannot be granted :-

(a).....

(b) to stay proceeding in a Court not subordinate to that from which the injunction is sought."

A glance at the two provisions, the existing and the repealed would reveal the legislative response to judicial interpretation. Under Section 56 (b) of the repealed Act, the Court was precluded by its injunction to grant stay of proceeding in a Court not subordinate to that from which the injunction was sought. In other words, the Court could stay by its injunction a proceeding in a Court subordinate to the Court granting injunction. The injunction granting stay of proceeding was directed to the Court and the Court has to be the court subordinate to the one granting the injunction. This is postulated on the well recognised principle" that the superior Court can regulate proceedings in a Court subordinate to it. It is implicit in this assumption and the language used in Section 56 (b) that the Court could not grant injunction u/s. 56 (b), of the repealed Act to stay proceeding in a Court

superior in hierarchy to the court from which injunction is sought. But by judicial interpretation a consensus was reached that as injunction acts in personum while the Court by its injunction cannot stay proceedings in a Court of superior jurisdiction; it could certainly by an injunction restrain a party before it from further prosecuting the proceeding in other Courts may be superior or inferior in the hierarchy of Courts. To some extent this approach not only effectively circumvented the provision contained in Section 56 of the repealed Act but denuded it of its content. The Legislature took notice of this judicial interpretation and materially altered the language of the succeeding provision enacted in Section 41 (b) replacing. Section 56 (b) of the repealed Act while enacting Specific Relief Act of 1963. The Legislature manifestly expressed its mind by enacting Section 41 (b) in such clear and unambiguous language that an injunction cannot be granted to restrain any person, the language takes care of injunction acting in personum, from instituting or prosecuting any proceeding in a Court not subordinate to that from which injunction is sought. Section 41 (b) denies to the Court the jurisdiction to grant an injunction restraining any person from instituting or prosecuting any proceeding in a Court which is not sub-ordinate to the Court from which the injunction is sought. In other words, the Court can still grant. an injunction restraining a person from instituting or prosecuting any proceeding in a Court which is subordinate to the Court from which the injunction is sought. As a necessary corollary, it would follow that the Court is precluded from granting an injunction restraining any person from instituting or prosecuting any proceeding in a Court of co-ordinate or superior jurisdiction. This change in language

deliberately adopted by the Legislature after taking note of judicial vacillation has to be given full effect.

21. Thus Court can not restrain any person from instituting or prosecuting any proceeding in Court of co - ordinate or superior jurisdiction. If defendant No. 1 or defendant No. 2 institutes or prosecutes the proceeding under any law before Competent Authority then the same not being subordinate to this court in exercising its jurisdiction, injunction can not be granted. If the competent authority is prevented from exercising the jurisdiction vested in it or the defendant no. 1 is prevented from prosecuting or instituting the proceeding before the competent forum then the same will tantamount to encroaching upon their right to approach the competent authority and get reliefs. Thus no prima-facie case of the plaintiff can be construed in view of the fact that the plaintiff has not prayed for substantive relief of specific performance but, opted only for the relief of permanent injunction and declaration and the conduct of the plaintiff being not bonafie, the assistance of the Court cannot be advanced to the plaintiff in view of Section 41(i) and 41(b) of the Specific Relief Act, 1963, and therefore I answer issues no. 1 in Negative.

Balance of Convenience and Irreparable Loss

22. The issue no. 2 speaks as to whether plaintiff proves that balance of convenience lies in favour of plaintiff and issue no. 3 speaks as to whether irreparable loss will be caused to the plaintiff if injunction is not granted.

To address this issue the admitted fact of defendant No. 1 being owner is to be looked into. The plaintiff has not opted for specific performance and has merely prayed for declaration and permanent injunction against the owner of suit land and that to on the basis of un-registered agreement to sale

which warrants the Hon'ble Court to look to the provisions Section 34 of Specific Relief Act, 1963. The same reads as under :

SECTION 34 : Discretion of court as to declaration of status or right.

Any person entitled to any legal character; or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief :

Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Explanation : A trustee of property is a "person interested to deny" a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

Thus plaintiff can institute a suit against a person who denies right of the plaintiff. Admittedly plaintiff has come before Hon'ble Court on the strength of agreement to sell and therefore the moot question to be address whether agreement to sell creates any right of plaintiff qua suit property. For the same it becomes imperative to refer to Section 54 of Transfer of Property Act, 1882. The same reads as under :

54. "Sale" defined.—

"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised. Sale how made.

Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immovable property of a value less than

one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property. Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.

A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. It does not, of itself, create any interest in or charge on such property.

Thus agreement to sell as per Section 54 of Transfer of Property Act, 1882 does not create any any right or charge on property and now when there is no right of plaintiff on the basis of agreement to sell except the right of specific performance can merely declaration be sought. The clear cut answer is no as agreement to sell does not confers any right as per Section 54 of Transfer of Property Act, 1882 and thus in absence of any prayer of specific performance the relief of declaration and permanent injunction becomes barred as relief of declaration u/s 34 of Specific Relief Act, 1963 can only be prayed if there is any right of plaintiff which is not in the present case as plaintiff has not prayed for specific performance and thus balance of convenience also can not be said to be in favour of the plaintiff.

Now as far as issue of irreparable loss is concerned then Section 54 of the Transfer of Property Act, 1882 is required to be looked into. As per the Section 54 of Transfer of Property Act, 1882 contract for sale i.e. agreement to sale does not by itself create any interest charge on suit property then no loss can be said to the plaintiff if injunction refused. On the contrary if injunction is granted on the strength of un-registered agreement of

sale then loss, if any, will be to the true owner who will be prevented from dealing his own property in absence of any substantive relief of specific performance. Thus no any loss can be construed to be caused to the plaintiff if injunction is refused. Further plaintiff has failed to show that Rs.11,00,000/- has been transferred to the defendant No. 1. The Bank statement put by the plaintiff does not reflect that the amount is being transferred to the account of defendant. On the contrary the agreement to sale at Mark 4/1 at page No. 3 speaks that plaintiff has paid cash to the defendant No. 1 which is against the Bank statement put by the plaintiff at Mark 19/1. Thus when ingredient for grant of injunction are not fulfilled then discretionary and equitable relief like injunction can not be granted to the plaintiff and hence the issue no. 2 and 3 are also required to be answered in negative and accordingly answer in negative.

24. The argument canvased by the Ld. Advocate for the plaintiff, that if injunction is not granted then there will be multiplicity of proceeding, can not be accepted. The plaintiff has not opted for substantive relief of specific performance but only ancillary relief of permanent injunction, making the conduct of the plaintiff doubtful and also the argument that defendant has executed another agreement to sale in favour of Ajaykumar Kanabhai Balasara, which is produced vide Mark 4/8 and Regular Civil Suit No. 39/2025 is also instituted and therefore considering the conduct of the defendant No. 1 injunction ought to be granted, can not be considered as the plaintiff himself inspite of knowing about conduct of the defendant No.1 not opted for specific performance but only prayed for permanent injunction and that to restraining the competent authority from exercising its jurisdiction. Thus when the conduct of the plaintiff itself is malafied then no arguments canvased by the plaintiff are tenable, being de-hors Section 41(b) and 41(i) of the Specific Relief Act, 1963, read with Section 54 of the Transfer of Property

Act, 1882 which makes the agreement to sale a document which does not creates any charge of interest in the property. Thus the arguments advanced by the Ld. Advocate for the plaintiff will not help the plaintiff to warrant the Hon'ble Court to grant injunction on account of law cited by the plaintiff himself viz. 2021(3) GLR Page No. 2136 wherein Hon'ble Gujarat High Court has observed that in Gujarat agreement to sale is required to be compulsorily registered and the only exception to that is said agreement can be used in suit for specific performance. Thus in the present case the agreement being un-registered and suit being only for permanent injunction and declaration, the arguments of plaintiff will not help the plaintiff to pocket the discretionary and equitable relief like injunction.

25. Further case law relied on by the plaintiff i.e. AIR(2022) Supreme Court 1555, speaks about readiness and willingness and agreement being not loan agreement but in the said case suit was for specific performance which is not the matter on hand and therefore the same can not be applied to the case on hand. The another case law relied on by the plaintiff i.e. AIR (2022) Supreme Court 65, speaks about Karta executing the agreement for legal necessity but the present case is not of defendant No.1 being Karta and therefore the same is also not applicable. The last case law relied on by the plaintiff i.e. 2023(O) AIJEL-HC 247279 is regarding limitation and in the same also the suit is for specific performance which is not the present case at hand. Hence it is also not applicable. Thus when the plaintiff has not opted for substantive relief and merely prayed for permanent injunction being de hors the provisions of law no equitable and discretionary relief like injunction can be granted to the plaintiff and therefore the following order is passed below this application.

-:: ORDER ::-

[1] The present Temporary Injunction Application is hereby **rejected**.

[2] There shall be no order as to cost.

Pronounced today on this **28th day of July, 2025** in the
Open Court.

Date :28/07/2025
Place:Vanthali.

(Lalitkumar Indravadan Ingale)
Additional Senior Civil Judge
Vanthali
(Code -GJ01372)