



**IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE,
KADI, DISTRICT : MAHESANA.**

REGULAR CIVIL SUIT NO. 171 OF 2022

:: Order Below Exh. – 5 ::

1. The plaintiff has instituted the suit for cancellation of sale deed and power of attorney, declaration and permanent injunction with respect to the old tenancy land bearing old Survey No.99, new Survey No.195, admeasuring Hect.Acre.Sq.mtrs. : 1-86-16, valued at Rs.4.00 situated in the sim of Moje : Yashvantpura, Sub-district : Kadi, District : Mahesana (**herein after referred to as the suit property**).

1.1 **Brief facts of the plaint :**

That, plaintiffs' ancestor -Ranchhodbhai Patel was holding the suit property and after his death on 12.02.2006, names of his lineal descendants have been mutated in the revenue record on 25.11.2006 vide entry No.1039 and since then the plaintiffs are jointly owned and possessed the ancestral suit property. Plaintiffs are engaged in their social life and business, whereas, the plaintiff No.4 was residing at Chandrasan and thus he was looking after the suit property, but, from the date 28.04.2006, the plaintiff No.4 had left the

home. Later on the village people have informed the plaintiff that their property was going to be sold and its notice was published in the news paper.

It is the say of the plaintiffs that, the defendant No.9- Ghanshyambhai has made fabricated power of attorney which was named by Raiben in favor of defendant No.9 and such stamp was purchased on 25.10.2007 and used on 06.11.2007 by making bogus signatures and thumb impressions and Notarised, thus, the said power of attorney was fictitious and on the basis of such fabricated and fictitious power of attorney, sale deed was executed in favor of defendant Nos. 1 & 2 on 17.11.2007 which was illegal and void-ab-initio because, neither the plaintiffs have signed any such power of attorney nor known anything about the Notary.

The plaintiffs have averred that, the plaintiff No.4 was missing since 28.04.2006 and ultimately, the plaintiffs have filed RCS No.13/2021 for order of civil death of plaintiff No.4, so when the plaintiff is missing in the year 2007 then how it is possible that the plaintiff No.4 has executed power of attorney in favor of defendant No.9 ! Further, it is averred by the plaintiffs that, they have not received any sale consideration amount by way of cheque of Gujarat Gramin Bank dated 10.11.2007 as mentioned in the bogus sale deed or any such amount has not been deposited in plaintiffs' bank account. The defendant No.9 and defendant Nos. 1, 2 in abetment of each-other have executed bogus power of

attorney and on basis of such bogus power of attorney executed a registered sale deed No.5327/2007 are bogus, illegal and void. Under such circumstances the plaintiff constrained to file the suit and during the pendency of the suit, plaintiffs have filed the present application Exh.5 to get temporary injunction against defendants.

- 1.2 In the plaint, the plaintiffs have prayed for ; cancellation of registered sale deed No.5327/2007 dated 17.11.2007 executed by bogus power of attorney holder i.e. the defendant No.9 and declaration that such sale deed is not abide upon the plaintiffs and also prayed for declaration that defendant Nos. 1, 2 & 9 are not entitled to sell the property ; declaration that the power of attorney is bogus and void-ab-initio.
- 1.3 In support of the version of the plaint, the plaintiff has filed the following documents :

Sr.No.	Description of document	Mark
1	Copy of power of attorney executed by plaintiff Nos. 1 to 4 in favor of plaintiff No.5	3/1 to 3/3
2	Copy of village Form No.6 & 7/12	3/4
3	Copy of registered sale deed and Notarised P.O.A.	3/5

2. Process was duly served upon the defendants. But, neither the defendant Nos.2 to 8 remained present before the Court nor filed any reply and consequently, their right was closed vide order below Exh.1 on 12.09.2025. Whereas, the

defendant No.9 appeared before the Court court through the Ld. Advocate and filed their reply vide Exh.19 whereby the defendant has denied in totality the contentions of the plaintiff. The defendant has specifically contended that the plaintiffs have bestowed power of attorney in favor of the defendant No.9 before the Notary on dated 06.11.2007 and on the basis of such power of attorney the defendant No.9 has executed registered sale deed in favor of the defendant Nos. 1 & 2 on 17.11.2007 and accordingly handed over possession to the defendant Nos. 1 & 2 and on that account the defendant Nos. 1 & 2 have mutated their names in the revenue record vide entry No.1067 on dated 21.11.2007 which was certified and since then the defendant Nos. 1 & 2 became legal owner and possessor of the suit property. Subsequently, the defendant Nos. 1 & 2 have mutated names of their legal heirs in the revenue record and thereby the defendant Nos. 1 to 8 became owner and possessor of the suit property and the plaintiffs have not challenged any revenue entry. The plaintiffs have submitted concocted facts about the plaintiff No.4 and in fact the plaintiffs have bestowed power of attorney in favor of defendant No.9 by their own free will. Furthermore, the said sale deed has been executed before 15 years and the plaintiffs are well aware of this fact, however, the plaintiffs have not followed any procedure since many years and as such plaintiff's suit is not maintainable and barred by the law of limitation.

2.1 In addition to above, the defendants have submitted that,

plaintiff has no prima facie case and balance of convenience is not in favour of the plaintiff, if the injunction order granted in favour of the plaintiff then defendants have to suffer huge loss which may not be compensated in terms of money, hence suit as well as injunction application of the plaintiff are liable to be dismissed with cost and requested to give compensatory cost of to the defendants.

3. Heard the Ld. Advocate for the parties.
4. Perused the material produced on record and considering the pleadings of the Ld. Advocate for the plaintiff, following issues have been framed to decide the present application below Exh.5 :-

:: ISSUES ::

1. Whether the plaintiff have a prima facie case in their favour ?
2. Whether the balance of convenience is in favour of the plaintiff ?
3. Whether an irreparable injury will be caused to the plaintiff if temporary injunction is not granted ?
4. What order ?

4.1 My findings to the above points are as under :

1. Issue No.1 : **In Negative.**
2. Issue No.2 : **In Negative.**
3. Issue No.3 : **In Negative.**

4. Issue No.4 : **As per final order.**

:: REASONS ::

• **Issue Nos.1 to 3 :-**

5. All these issues are inter-connected with each other and in order to avoid repetition of the facts, all these issues are dealt and discussed together.

5.1 The proof of the possession of the suit property is the fact which need to be established by the plaintiff in order to obtain the temporary injunction. Admittedly the suit property has been mutated in the revenue records in the name of defendant Nos. 1 to 8 and such mutation has been made on account of the registered sale deed executed by defendant No.9 on behalf of all the plaintiffs in the capacity of a power of attorney. The power of attorney so executed by the plaintiffs in favor of the defendant No.9 has been made the part of the registered sale deed.

It is the contention of the plaintiffs that false and fabricated revenue entries were mutated in the name of defendant Nos. 1 & 2 on account of the registered sale deed executed by so called power of attorney in favor defendant No.9. To appreciate this fact, it is necessary to go through the law with regard to the revenue entries in the following provisions of Gujarat Land Revenue Code, 1879.

108. Preparation of statistical and fiscal records.- It shall be

the duty of the survey officer, [or the Settlement Officer] on the occasion of making or revision a settlement of land revenue, to prepare a register, to be called "the Settlement Register", showing the area and assessment of each survey number, [with any other particulars that may be prescribed] and other records in accordance with such orders as may from time to time be made on this behalf by [the [State] Government].

- 5.2 As per this section statistical and fiscal records are prepared and made by the survey officer and the duty has been cast upon him to prepare the settlement register showing the area and assessment of each survey number. Plaintiff in his plaint stating that existing revenue entries in favor of defendants shall be stand canceled which is undoubtedly within the power and disposition of revenue authorities under Gujarat Land Revenue Code.

It will also be worth to go through the procedure for the mutation in the village records. following section provides for procedure of such mutation.

135D. Register of mutations and register of disputed cases.-

[(1) The village accountant shall enter in a register of mutations every report made to him under section 135C or any intimation of acquisition or transfer of any right of the kind mentioned in section 135C received from the Mamlatdar or a Court of Law.]

(2) Whenever a village accountant makes an entry in the register of mutations he shall at the same time post up a complete copy of the entry in a conspicuous place in the

chavdi, and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(3) Should any objection to any entry made under subsection (1) in the register of mutations be made in writing to the village accountant, it shall be the duty of the village accountant to enter the particulars of the objection in a register of disputed cases [and to give a written acknowledgement of the receipt of such objection to the person making it.]

(4) Orders disposing of objections entered in the register of disputed cases shall be recorded in the register of mutations by such officers and in such manner as may be prescribed by rules made by the [[State] Government] in this behalf.

(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the [[State] Government] in this behalf: provided that an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

*(6) **Entries in register of mutations how to be certified.** - Entries in the register of mutations shall be tested and if found correct or after correction, as the case may be, shall be certified by a revenue officer of rank not lower than that of a Mamlatdars' first Karkun.*

*(7) **Tenancies.** - The provisions of this section shall apply in*

respect of perpetual tenancies and also in respect of any tenancies mentioned in a notification under subsection (2) of section 135-B, but the provisions of this section shall not apply in respect of other tenancies, which shall be entered in a register of tenancies, in such manner and under such procedure as the [[State] Government] may prescribe by rules made in this behalf.

135L. (1) No suit shall lie against the [Government or any officer of Government] in respect of a claim to have an entry made in any record or register that is maintained under this Chapter, or to have any such entry omitted or amended, and the provisions of Chapter XIII shall not apply to any decision or order under this Chapter.

(2) The correctness of the entries in the record of rights and register of mutations shall be inquired in to and the particulars thereof revised, by such Revenue Officers and in such manner and to such extent and subject to such appeal as the [State Government] may from time to time by rules prescribed in this behalf.]

- 5.3 The entries made by the revenue authorities in the name of defendant Nos. 1 & 2 has been certified and admittedly been effected into the village form no.6,7/12 and 8A. As per the Gujarat Land revenue Code, any mutation that has been effected in the revenue records by following the due process mentioned in Sec.135 D is the exclusive jurisdiction of Revenue Authorities and such entries cannot be challenged

before the Court of Law vide Sec.135 L. Plaintiff fails to account as to how such revenue entries can be challenged before this Court. There is no pleading in the plaint itself which warrants the Court to intervene in the exclusive jurisdiction of revenue authorities.

It is also the contention of the plaintiffs that plaintiff No.4 was missing since 28.04.2006 and a suit has been filed to declare civil death of the plaintiff No.4 but the plaintiffs failed to disclose any fact with regard to the civil Suit number so filed for declaration of civil death, the final order or judgment of the Court stating whether the civil death has been awarded by the Court. Merely, pleading of civil death has been made without submitting any further details in the form of document along with the plaint.

- 5.4 Failure of plaintiff ; to account for the jurisdiction of this court for cancellation of revenue entry, insufficient reason for the lapse of time to cancel the registered sale deed made in the year 2007 and Non-impleadment of full particulars with regard to the civil death of plaintiff No.4 do not make the case of plaintiff as a prima-facie case.

As a prima facie case is not established by the plaintiff then rest of the two elements of temporary injunction need not to be discussed.

Upon the strength of above facts & circumstances and the settled principles of law, answer to issue Nos.1 to 3 comes

in Negative and court passes the following order for issue No.4 :

:: Final Order ::

1) The present Injunction application below Exh.5 is rejected.

Pronounced in the open Court today on this 29th day of the Month of January, 2026 at Kadi.

Place :Kadi.
Date: 29.01.2026

(Ram Kumar Arya)
Additional Sr. Civil Judge,
Kadi, District : Mahesana.
(GJ 01324)

*JPT