

ORDER BELOW EXHIBIT- 05

=====

Ld. Advocate Mr.D.S.Tandel for the plaintiff.

None for the defendant

=====

1. The present application has been filed by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, seeking a temporary injunction against the defendants.

2. After service of summon public notice upon the defendant he has appeared before this court but haven't filed his written statement till 25.09.2025. Therefore, this court has closed the right of defendant to file a written statement. The case of the plaintiff, in brief, is that the plaintiff purchased the suit properties bearing City Survey Nos. 784, 787 and 788 situated at Degam, Taluka Chikhli, by registered sale deeds executed in the years 2017 and 2018. It is contended that, by virtue of the said sale deeds, the plaintiff became the lawful owner and occupant of the suit properties and her name came to be mutated in the relevant revenue and city survey records. It is further the case of the plaintiff that the defendant was permitted to occupy a portion of the suit property bearing City survey no.784 as a licensee on payment of Rs.3,000/- per month. A Leave and Licence Agreement dated 25.02.2020 was executed between the parties. The said agreement expired on 31.12.2020. However, despite expiry of the licence period, the defendant failed to vacate the premises. The plaintiff has further alleged that repeated requests and legal notices were issued to the defendant calling upon him to hand over vacant possession of the suit property. However, the defendant neither vacated the property nor paid the agreed licence charges. It is also alleged that the suit properties are old and dilapidated structures requiring reconstruction and that continued occupation by the defendant is causing hardship to the plaintiff. Said fact was conveyed by plaintiff to Gram Panchayat by letter dated. 01/05/2025.

The plaintiff have also served legal notice to the defendant on 30/04/25. Despite that plaintiff is not vacating the possession of suit property and not paying licensee fees, which causing damages to plaintiff. Thus, plaintiff has constrained to file a present suit for recovery of possession, damages and perpetual injunction.

3. After service of summons, the defendant appeared before the Court. However, no written statement was filed within the prescribed period. Accordingly, by order dated 25.09.2025, the right of the defendant to file a written statement came to be closed.

4. Learned advocate for the plaintiff submitted that the documentary evidence produced on record clearly establishes the plaintiff's title over the suit properties. It was further argued that the city survey records, registered sale deeds and other supporting documents demonstrate a strong prima facie case in favour of the plaintiff. Therefore, present application may be allowed. Despite sufficient opportunity, the defendant remained absent at the stage of hearing of the present application and, therefore, the right of the defendant to address arguments came to be closed.

5]. I have gone through the pleadings of the parties and documents produced along with and to decide present application following points arise for my determination:

1. Whether the plaintiff has prima facie case?
2. Whether balance of convenience is in favour of the plaintiff?
3. Whether if the injunction as prayed for is not granted in favour of plaintiff, he would suffer irreparable loss which would not be compensated in terms of money?
4. What order?

6]. For the reasons stated below I answer above points as under:

- 1.In Affirmative.
- 2.In Affirmative
- 3.In Affirmative
- 4.As per final order.

7]. Issue No. 1:

7.1]. Before considering the arguments of either side and to give answer to point No.1 for the sake of convenience the ratio laid down in **Gujarat Electricity Board ,Gandhinagar v. Maheshkumar and Co., Ahmedabad 1995(5) SCC 545) is required to be considered, wherein it as held that,..**

"Prima facie case " means that the Court should be satisfied that there is a serious question to be tried at the hearing, and there is a probability of Plaintiff obtaining the relief at the conclusion of the trial on the basis of the material placed before the Court. "

7.2]. In light of the aforesaid decision, if the documents produced by the plaintiff are perused, it clearly transpires from the documents marked at Exhibits 3/1 to 3/20 that the plaintiff's name has been mutated in the City Survey records pertaining to City Survey Nos. 784, 787 and 788 vide Mutation Entry Nos. 273, 361 and 360 respectively. The plaintiff has also produced registered Sale Deed Nos. 1563, 482 and 1562, which were executed during the years 2017 and 2018. Upon perusal of the said documents, it prima facie appears that the plaintiff purchased the suit properties through duly registered sale deeds. Exhibit 3/5 is the Leave and Licence Agreement, which indicates that the plaintiff had granted the property mentioned at Serial No. 2 to the defendant on leave and licence basis at a monthly licence fee of Rs.3,000/-. Exhibit 3/6 is the notice dated 13.04.2022 issued by the plaintiff calling upon the defendant to vacate the suit property. Exhibits 3/7 and 3/8 are house tax receipts standing in the name of the plaintiff. Exhibits 3/8 and 3/9 are public notices affixed at the suit property. Exhibit 3/10 comprises documents obtained under the Right to Information Act, which reveal that the defendant's wife had lodged a

complaint against the plaintiff and that the said complaint was subsequently filed by the police. Exhibit 3/11 is an affidavit sworn by Shri Pinakin Gunwantraai Desai, the brother of the defendant, wherein it is specifically stated that the suit property had been sold to the plaintiff. Exhibit 3/12 is a legal notice issued by the plaintiff to the defendant calling upon him to vacate the suit property. Exhibit 3/16 is an application submitted by the plaintiff to the Chikhli Police Station, while Exhibit 3/17 is an application addressed to the Degam Gram Panchayat. Upon consideration of the aforesaid documentary evidence produced by the plaintiff, it prima facie appears that the plaintiff has purchased the suit properties through registered sale deeds and that her name has been duly mutated in the City Survey records. Therefore, this Court is satisfied that the plaintiff has established a prima facie case in her favour. Accordingly, Issue No. 1 is answered in the affirmative.

8.1]. Issue No.2 and 3:

Before answering the second and third issues the ratio laid down by Hon'ble Gujarat High Court in the case of Ashok Bhanushankar Primary Shikshan sameetee 2000(2) GLH (UJ) 6 is also required to be considered. In which it was held that,...

“While considering the prayer for grant of temporary injunction or interim relief pending the suit, the court has to consider that the party praying for the same has made out prima facie case , that in case the interim relief as prayed for is not granted , it will result in causing irreparable injury to him which cannot be compensated in terms of money and lastly the balance of convenience also favours grant of the same. It is no more res integra that merely because the litigant praying for temporary injunction or interim relief has prima facie case in his favour alone is not sufficient for grant of temporary injunction or interim relief unless on all the three

aforesaid ingredients the court is satisfied and then only temporary injunction or interim relief as prayed for can be ordered , but not otherwise .”

8.2]. In view of the aforesaid legal position and the discussion made herein above, it is clear that the plaintiff is required to establish not only a prima facie case but also that the balance of convenience lies in her favour and that she would suffer irreparable loss if the temporary injunction is not granted. In the present case, the plaintiff has successfully established a prima facie case. The documents produced by the plaintiff indicate that her name is duly recorded in the City Survey records in respect of the suit property. Therefore, if the temporary injunction is not granted, the plaintiff is likely to suffer irreparable loss which cannot be adequately compensated in terms of money. Considering the facts and circumstances of the case and the documentary evidence placed on record, this Court is of the opinion that the balance of convenience also lies in favour of the plaintiff. Accordingly, Issue Nos. 2 and 3 are answered in the affirmative. To meet the ends of justice, the following order is passed:

ORDER

1. The application filed by the plaintiff below Exhibit-5 is hereby allowed.
2. The defendants are hereby directed to maintain **status quo** with regard to the nature, possession, and character of the suit property until the final disposal of the suit.
3. The costs of the present application shall be borne by the defendants.

Signed & Pronounced in the open court today on 3rd day of June, 2026.

Dt. 03/06/2026 Chikhli.	SUNILKUMAR PRANSHANKAR DAVE Addl. Senior Civil Judge, Chikhli. (CODE NO.GJ- 01390)
----------------------------	--