

GJPM040029992024**REGULAR CIVIL SUIT No.92 OF 2024****ORDER BELOW EXH.5**

1. The plaintiff has instituted present suit for declaration and permanent injunction against the defendant for a land bearing R.S. No.263 Paiki 2 and 263 Paiki 3 situated at Village Varasada, Sub District Halol, District Panchmahal. During the pendency of the suit to protect and preserve suit properties the plaintiff has seeking interim injunction by way of present application under Order 39 Rule 1 and 2 read with Section 151 of the Civil Procedure Code, 1908.
2. It is settled proposition of law of interim injunction that the plaintiff should have to three ingredients in his favour to obtain interim injunction from the Court of law. Therefore, I propose to frame following issues for the determination of this application ;

ISSUES

1. Whether the plaintiff proves that he has prima faice case in his favour ?
2. Whether the plaintiff proves that the balance of convinience is in his favour ?

3. Whether the plaintiff proves that he would have cause irreparable loss in absence of interim injunction ?
4. What order ?

DECISIONS

1. In Negative.
 2. In Negative.
 3. In Negative.
 4. As per final order.
3. My reasons for above decisions are as under ;

REASONS

4. In a given case, it is the case of the plaintiff that his grandfather Somabhai Raghabhai has purchased suit properties from Somabhai Jethabhai and Shakrabhai Jethabhai before 70 years that in the year 1953 under oral agreement for a sum of Rs.700/-. Since then earlier grandfather of the plaintiff thereafter father of the plaintiff namely Kantibhai as well as on today the plaintiff and his father holding suit properties and cultivating the same. So it is to say of the plaintiff that before 70 years, more particularly, in the year 1953 grandfather of the plaintiff has purchased suit properties by way of oral agreement to sale since then the plaintiff is

in possession of the suit properties. First of all, under Section 54 of the Transfer of Property Act read with Section 17 of Registration Act, registration of instrument of immovable property rupees hundred and upwards is mandatory. In other words, there should be a registered sale deed with the plaintiff. Oral agreement for immovable is not tenable in eye of law. Secondly, the plaintiff has not adduced any evidence on record which may lead this Court to believe that the plaintiff is in actual and peaceful possession of the suit properties. On the contrary, abstract of village forms submitted by the plaintiff vide Mark-3/1 to Mark-3/3 are shows that the defendants are occupiers of the suit properties. Considering this facts and circumstances it appears that, the plaintiff does not have a prima facie case at all. While the plaintiff does not have prima facie case it is not necessary to go for another two necessary ingredients for interim injunction. Therefore, as the plaintiff does not have a prima faice case, I pass following final order in the larger interest of justice ;

: FINAL ORDER :

1. The present interim injunction application of the plaintiff under Order 39 Rule 1 and 2 read with Section 151 of the Civil Procedure Code is hereby rejected.

2. No order as to cost.

Signed and pronounced today on this 4th day of August, 2026.

Date : 04.08.2026.
Place : Halol.

V. T. Desai

[Rajeshkumar Batuklal Joshi]
Principal Senior Civil Judge,
Panchmahals at Halol.
Judge Code : GJ00952