

-:: ORDER below Ex.5 ::-

- (1) This is an application filed by the plaintiff under Order-39 Rule-1 & 2 read with Section-151 of The Code of Civil Procedure, 1908 for seeking temporary injunction against defendants for transferring the disputed suit property bearing new survey no.1223 old survey no.834 admeasuring H.0-23-57 Sq.Mts. situated at Sunsar, Tal-Chanasma Dist-Patan by the plaintiff.
- (2) The plaintiff has filed documents by way of list of documents vide Mark-3/1 to 3/9 alongwith plaint and injunction application. The summons were issued against the defendants and they were duly served to the defendants. Although they were not remain present before this court, hence the right of filing the written statements were closed by this court respectively.
- (3) Heard the Ld. Advocate for the plaintiff. He contended as per the application for temporary injunction. He further contended that there is prima facie case and balance of convenience in favour of the plaintiff and the temporary injunction would not be granted in favour of the plaintiff, the plaintiff will have to suffer irreparable loss. Hence prayed for temporary injunction.
- (4) Nobody remained present on behalf of the defendants. Hence, heard no one for the otherside.
- (5) This is an application for temporary injunction and there are three basic principles for granting injunction i.e. Prima facie case in favour of the party seeking injunction, Balance of convenience in favour of such person and last there must be a irreparable loss which are likely to be caused to party if injunction is not granted to such person. Thus an injunction being an equitable remedy is always at the discretion of the court. However, such

discretion must be based on sound judicial principles and guided by rules of Equity and the peculiar facts and circumstances of the case. In addition to this three basic principles for granting or refusing to grant injunction, the conduct of the person seeking injunction should also be taken into consideration because the granting of injunction is an equitable relief and is drastic or serious order and there are two basic maxims of equity which are important to be consider at the time of deciding injunction application which are "He who seeks equity must do equity" and "Who comes to equity must come with clean hand".

- (6) Considering the materials on record and arguments advanced by the Ld. Advocates for the parties, it appears that there is no need to go into the merits of the case as no one remained present on behalf of the defendant side. So it implides that any defendants have no objection if this application be allowed. Hence, In view of the above, the grant of an order of maintaining *status quo* with respect to possession of suit property would serves the ends of justice and it would protect the legitimate rights of both the parties. So in view of the aforesaid reasons, this court inclines to grant partly an application for temporary injunction filed by the plaintiff. Under such circumstances, I hereby pass following order in the interest of justice.

-:: ORDER ::-

The application for temporary injunction is hereby partly allowed.

The defendants are hereby ordered to maintain *status quo* with respect to the suit property bearing city survey no.100 Sq.Mts.1150.3361 situated at Junagadh, Tal-Junagadh, Dist-Junagadh until final order of this suit or further order of the court.

Cost shall be the cost in the cause of the suit.

Declared and Pronounced today in open court on 07 day of
November of 2023.

Place : Chanasma

Date : 07/11/2023

(U.G.Pathan)
Principal Civil Judge,
Chanasma-GJ01574