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Order below Exh.5

in

Regular Civil Appeal No. 11/2024.
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1. The appellants/original plaintiffs herein have preferred the present application along with the appeal, seeking interim injunction during pending appeal. It is contended by the appellants/original plaintiffs that respondent No. 3 of the appeal had submitted an application at **Exh.18** under order CPC order - 7 Rule-11 (A) (D), in suit bearing Regular Civil Suit No. 31/021, was allowed in favour of the him by the Ld. Principal Senior Civil Judge, Idar and being aggrieved with the same, they have preferred the present appeal. It is further contended that the facts stated in the appeal memo may be considered as part and partial of the present injunction application. The aspects of prima facie case, balance of inconvenience and irreparable loss are in their favour and if the injunction is not granted than, the appeal will become meaningless and infructuous. It is further contended that the appellants are ready and willing to pursue with the present appeal, as expeditiously as, possible. It is stated that, if injunction is granted than respondents/original defendants will not suffer any hardship. It is further contended that Ld. trial without appreciating evidence in its true latter and spirit had allowed the said application. It is stated that, record and

proceedings of R.C.S. 31/2021 be called for the purpose of hearing of the present appeal and interim application. It is prayed that, interim injunction in view of para - 4 may kindly be granted during pending hearing and final disposal of the present appeal in favour of the appellants/original plaintiffs and restrained the respondents/original defendants by interfering and/or disturbing in the peaceful possession of the appellants/ original plaintiffs.

2. Upon receiving the present appeal, notice has been issued to the respondents/original defendants. Record and proceedings of the Ld. Trial Court has been called for. Upon serving of notice respondent/ original defendant No. 3 appeared through his Ld. Advocate and remaining respondents/original defendants have chose to remain silent.
3. Ld. Advocate for the respondent No. 3 has argued that the appellants/original plaintiffs has intentionally kill the time. It is further stated after considering all the materials on record and after due appreciation Ld. Trial Court had allowed the said application which is just and proper and not required any interference and also prayed to reject the present interim application as there is no prima facie case in favour of the appellants/original plaintiffs and prayed to reject the application by considering the arguments.
4. Having perused the record and proceedings it transpires that the present Regular Civil Appeal No. 11/2024 was

received by transfer from the Court of 2nd Additional District Judge, Idar vide Office Order No. 575/24, dated 26.11.2024 of the Hon'ble Principal District Court, Sabarkantha at Himmatnagar. Since then, it appears from the record that neither the appellant nor his Ld. Advocate has remained present before this Court. Even prior to the transfer of this appeal to this Court, only in one occasion the the appellant had filed an application for adjournment and thereafter neither appellant and nor his Ld. Advocate remained present before the that Court. Therefore, it appears that the appellant and his Ld. Advocate are not inclined to proceed with the matter. Hence, the right of argument has been closed on dated 30.09.2025.

5. I have gone through order passed by the Ld. trial Court in under order CPC order - 7 Rule-11 (A) (D), in suit bearing Regular Civil Suit No. 31/2021, under order below Exh. 18 and also gone through Record and Proceeding for considering prima facie case, balance of convenience and irreparable loss which can not be compensated in terms of money. Considering all the material on record. It appears from the record that the there is a dispute between the parties pertaining land and suit has been rejected by the Ld. Trial Court under the provision of order 7 rule 11 of the Code of Civil Procedure by passing order below Exh.18 application given by the defendant No. 3. Thus, considering averments and contentions of the appellants/original

plaintiffs and having peruse the record, I have not found any prima facie case in favour of the appellants/original plaintiffs. Therefore, if now the order of injunction or even the status quo is passed, then it will cause irreparable loss and considerable hardship to the respondents/ original defendants. Hence, no such order can be passed at this juncture. Therefore, following order is passed.

ORDER

1. The present injunction application preferred by the appellants/original plaintiffs vide Exh.5 is hereby **"rejected"**.
2. It will be open for the appellants/original plaintiffs to submit final written arguments with respect to the present appeal, if he has any urgency for the same.

Signed and pronounced in the open Court today on this **13th day of October, 2025.**

Date : 13-10-2025
Place : Idar

(M. Y. Radhanpurwala)
3rd Additional District Judge,
Sabarkantha at Idar.
Code No. GJ00734.

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