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**Order below Exh.5**  
in  
**Regular Civil Appeal No. 21/2025.**  
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1. The appellants/original defendants herein have preferred the present application along with the appeal, seeking interim injunction during pending appeal. It is contended by the appellants/original defendants that the suit bearing Regular Civil Suit No. **23/2015** was partly allowed in favour of the plaintiff vide **Exh- 86** and and in pursuance to that decree has been drawn at **Exh - 87** on dated **08.10.2024** by the **Ld. Principal Senior Civil Judge, Khedbrahma** 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 respondent/original plaintiff will not suffer any hardship. It is further contended that Ld. trial without appreciating evidence in its true latter and spirit had partly allowed the suit. It is stated that, record and proceedings of R.C.S.

23/2015 be called, for the purpose of hearing of the present appeal and interim application. It is prayed that, interim injunction in view of para - 2 may kindly be granted during pending hearing and final disposal of the present appeal in favour of the appellants/ original defendants and restrained the respondent/original plaintiff by interfering and /or disturbing in the peaceful possession of the appellants/ original defendants.

2. Upon receiving the present appeal, notice has been issued to the respondent/original plaintiff. Record and proceedings of the Ld. Trial Court has been called for. Upon serving of notice respondent/ original plaintiff appeared through his Ld. Advocate.
3. On behalf of the appellant/original defendants, Ld. Advocate Mr. P. J. Mehta argued that the present appeal will take time for hearing and disposal and if interim injunction is not granted than the respondent/original plaintiff will disturb the possession of the appellant/ original defendants and they will lose the possession of house. But, under the guise of the present Judgment and decree of the Ld. trial Court, respondent/ original plaintiff might be disturbed in the possession of the appellant/original defendants. Therefore, interim relief required to pass in favour of the appellant/original defendants. It is further contended that, if the interim relief is not granted then the purpose of appeal will not survive and in that circumstances, the appeal will

become infructuous. Therefore, he has prayed to allow the present application.

4. Per contra, Ld. Advocate for the respondent/original plaintiff has argued that the appellants/original defendants has intentionally kill the time. Further submitted that, appellants/original defendants have not projected any law point or issues of facts in the present appeal and indirectly appellants/original defendants admitted the judgment and decree of the Ld. trial court. It is further stated after considering all the materials on record and after due appreciation Ld. Trial Court partly allowed the respondent/original plaintiff's suit, 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 defendants and prayed to reject the application by considering the arguments.
5. Having heard the Ld. Advocate for the appellants/original defendants and Ld. Advocate for the respondent/original plaintiff and having perused the material on record, at this juncture, when this Court is deciding the present interim application and since the adjudication of the appeal is yet to be done, therefore, this Court is not entering into the merits of the appeal since at this juncture, the whole discussion of the evidence and arguments of the appellants/original defendants side is not even required for present

adjudication. If the dispute between the parties is summarized, then as per say of the appellants/original defendants in the present application that, Ld. Trial Court without considering the documents on record of the appellants/original defendants and without appreciating the same in in true letter and spirit had partly allowed the suit. Further the issues which are framed by the Ld. Trial Court and appellants/ original defendants have discharge their burden and proved the facts in issue by leading documentary evidences, but Ld. trial court arbitrary not believed the said documents and rejected the entire suit in their favour. Further contended that, Ld. trial Court without taking into consideration of the material on record rejected the suit which required to be quash and set a side. Similarly Ld. Advocate for the respondent/ original plaintiff drawn attention that after evaluation of material on record and after appreciation of evidences Ld. trial court partly allowed the suit which is just and proper and no interfere is required and prayed to reject the present application as appellants/ original defendants not having any prima facie case in their favour.

6. I have gone through order passed by the Ld. trial Court in R.C.S. 23/2015 on dated 08.10.2024 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 there is a dispute between the parties pertaining to eviction and possession of the suit property as well as arrears of rent. Thus, considering averments and contentions of the appellants/original defendants and having perused the record and three golden principles of interim relief i.e. prima facie case, balance of convenience and irreparable loss which can not be compensated in terms of money. It is the case where the prima facie case is in favour of the appellants/original defendants and if the order of injunction or even the status quo is not passed, then it will cause irreparable loss and considerable hardship to the appellants/ original plaintiffs. Hence, following order is passed in the large interest of justice.

**:: O R D E R ::**

1. The present interim injunction application preferred by the appellants/original defendants vide **Exh.5** is hereby "**allowed**".
2. The Judgment at **Exh - 86** and decree at **Exh-87** passed by the Ld. Trial Court on dtd. **08.10.2024** in R.C.S **23** of **2015** is hereby stayed till final disposal of the present appeal.

3. However both the parties are hereby directed to submit their final written arguments with respect to the present appeal and co-operate to this court without taking unnecessary adjournment and consuming precious time of the Court for final disposal of the present appeal.
4. A copy of this order be forwarded to the learned trial court for necessary information and action.

Signed and pronounced in the open Court today on this **9<sup>th</sup> day of October, 2025.**

Date : 09-10-2025

Place : Idar

**(M. Y. Radhanpurwala)**  
3<sup>rd</sup> Additional District Judge,  
Sabarkantha at Idar.  
Code No. GJ00734.

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