

**ORDER BELOW EXHIBIT NO.5**

This order shall dispose of the applications filed by the plaintiff Under Order XXXIX Rule 1 and 2 read with the Section 151 of the C.P.C, 1908, for granting of interim injunction restraining Defendants from transferring or sale or by creating or making any sort of lien or loan or handing over the possession of the disputed suit property or give it away for the rent or for usage or transfer it so that any right is created over the property till the suit is decided.

A) Before deciding this application it is appropriate to give a brief resume of the facts as averred in the plaint along with the plaintiff's version, which are as follows:

1. Plaintiff no 1 is the resident of the Vaghodia vadodara and Defendant is the resident of the Khervadi village of the Vaghodia taluka having the land admeasuring Hectare, are, Sq Meter; size of 4.70 paisa bearing the Khata no 329, survey no 118/3 paki 2 having the new survey no 246 of the village Gugurapura at Vaghodia taluka of Vadodara District ( Herein after referred as the Suit property ).
2. He then gave out that since the defendant is the independent owner of the property and wanted to sell the suit property and approached him and informed him about to sell the property at Rs 5,55,000/- and to that he showed his willingness to purchase the property.
3. He then gave out that it was after his willingness shown to him and thus they both; plaintiff and defendant went to the sub-registrar office and where they executed the Agreement to sale the property on 20/01/2024 in the presence of the witness vide registration No 529 and

to that effect he had paid him Rs 2,51,000/- through the cheque and through Online payment method and then the agreement to sale was registered after both the parties signed on it.

4. He then gave out that he called upon the Defendant frequently to get the Bank loan removed from the suit property as the loan was taken from the bank so that title could be cleared and the rest remaining amount be paid to him as per the agreement to sale as he was ready to clear the remaining conditions of the agreement to sale but the defendant took out excuses and didn't execute the agreement which was agreed upon.
5. He then gave out since the defendant was not ready to perform his part of the agreement and thus he sent the notice to the defendant through his advocate and to which defendant has replied and thereafter they mutually agreed to new agreement on 28/01/2025 and as per that agreement plaintiff has paid the loan amount which was due on the suit property on the behalf of the defendant and thus he has paid the full amount to the defendant and yet till date nor completed his part of the agreement.
6. Since he is ready to perform his part of the agreement and he has paid the amount as agreed initially as the amount was left only to the extent of the Rs. 3,04,000/- only after the agreement to the sale was done and which was agreed by both the parties and he was asked to get the appointment done in the Sub-registrar office to get the sale deed done and thus he paid the fees of Rs. 6150/- for 21/02/2025 but now the defendant want to get the more amount of the suit property and

wanted to sell the property to the other persons in order to get the higher price of the suit property which would result into his right over the property be wasted as it would be sold to the another party and thus in order to save his right and upon refusal he has come to the court and filled this suit.

7. He then gave out that since there was an agreement between the defendant and him and thus to that effect he has the first right and he is entitled to the interim injunction over the suit property and if not given to him then he would suffer the loss which would not be compensated in the terms of the monetary effect and he will suffer loss but there would be no loss to the Defendants with this .
8. He then gave out if the property is sold, transferred, or lien is created or assignment is done by the defendant to the other some other 3<sup>rd</sup> party which would result into the multiplicity of the suits and thus balance of connivance lies with him.
9. Thus if defendants are allowed to continue then this may lead to loss which cant be compensated in any form and thus defendants needs to be stopped otherwise they would be selling this property thus they need to be stopped as he has the prima-facie case and thus grant of interim injunction restraining Defendants from transferring or sale or by creating or making any sort of lien or loan over the disputed suit property or give it away for the rent or for usage till the suit is decided in his favour.
10. In support of the plaint he has given the Revenue Record Entries of the suit property, agreement to sell , copy of the bank statement &

copy of notice and the draft sale deed with the fees paid in the sub-registrar office vide , M-4/1-13.

11. Therefore, the plaintiff was constrained to file this suit for Permanent injunction. In the said suit, later permanent injunction was also prayed for restraining Defendants from transferring or sale or by creating or making any sort of lien or loan over the disputed suit property or give it away for the rent or for usage till the suit is decided in his favour and thus which may create the hardship to him.
12. Along with this suit plaintiff also filed an application under order 39 rule 1& 2 of CPC seeking injunction pending the suit for restraining the defendants, their servants, agents from transferring or sale or by creating or making any sort of lien or loan over the disputed suit property or give it away for the rent or for usage till the suit is decided in his favour over the disputed suit property.
13. Plaintiff had not done the oral arguments in the case which was to be done and thus right to advance the arguments was closed in the case and thus his application is being considered of this application under order 39 rule 1&2 in the application.

**B) Defendant's version**

1. The Defendant were served the notice for the appearance on 15/04/2025 for the assigned date of 08/05/2026 and for Exb 5 interim injunction application hearing vide Exb 6 notice but he never remained present in the court nor there was any application on his behalf on the record of anything nor his authorized advocate has appeared on his

behalf and the matter was proceeded Ex-parte while closing his right to file the WS on 08/05/2025. Thus there are no arguments on the Behalf of the Defendants or any WS or reply to the Exhibit 5 interim injunction application.

**II.** Before deciding this application, it is appropriate to give a brief resume of the facts as averred in the plaint, which are as follows:

- a) Dispute is regarding the land admeasuring Hectare, are, Sq Meter; size of 4.70 paisa bearing the Khata no 329, survey no 118/3 paki 2 having the new survey no 246 of the village Gugurapura at Vaghodia taluka.
- b) Plaintiff are trying to claim the right over the property through the registered agreement to sale which was done by the parties to the suit.
- c) Property in dispute is situated at Gugrapura in Taluka Vaghodia District Vadodara. Thus, this land falls into the jurisdiction of this court.

**C) Evidence forwarded by the contesting parties as follows:**

- Plaintiffs' Evidence: List of Documents *vide Exhibit no.4,*
- Defendant's' Evidence: Nil.

**D) Findings of this court for the disposal of this application are as follows:**

- 1)** It is elementary that grant of an interlocutory injunction during the pendency of the legal proceeding is a matter requiring the exercise of discretion of the Court. While exercising the discretion the Court normally applies the following tests:-

1. Whether the plaintiff has a prima facie case;
2. Whether the balance of convenience is in favor of the plaintiff;  
and
3. Whether the plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed.

2) The decision whether or not to grant an interlocutory injunction has to be taken at a time when the exercise of the legal right asserted by the plaintiff and its alleged violation are both contested and remain uncertain till they are established on evidence at the trial. The relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the plaintiff during the period before which that uncertainty could be resolved. The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favor at the trial. The need for such protection has, however, to be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The Court must weigh one need against another and determine where the "balance of convenience" lies.

3) In the present case court proceeds to see if all these three ingredients are not fulfilled. The existence of a prima facie case and infraction of such right is a condition precedent for grant of temporary injunction.

The prima facie case doesn't mean a case proved to the hilt. The only requirement is that on the face of it there should be a case in favor of the plaintiff. While determining whether a prima-facie case had been made out the relevant consideration is whether on the evidence led it was possible to arrive at the conclusion in question and not whether that was the only conclusion which could be arrived at on that evidence.

- 4) Existence of the prima facie case alone does not entitle the applicant for a temporary injunction, but the applicant must satisfy the court that he will suffer *irreparable injury* if the injunction as prayed for is not granted and that there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury.
- 5) Other essential condition for granting interim injunction is that the *balance of convenience* must be in favor of the applicant. In other words, court must be satisfied that the comparative mischief hardship or inconveniences which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.
- 6) Therefore the principal question which requires consideration is; whether the plaintiff is in a position to establish his prima facie case and is entitled to get interim injunction during the pendency of the suit.
- 7) Therefore to settle this controversy it is necessary to peruse the documents produced and record of the case in hand. On perusal it is found that plaintiff has averred in his pleading that defendant wanted

to sell the suit property; land admeasuring Hectare, are, Sq Meter; size of 4.70 paisa bearing the Khata no 329, survey no 118/3 paki 2 having the new survey no 246 of the village Gugurapura at Vaghodia taluka and informed him about to sell the property at Rs 5,55,000/- and to that he showed his willingness to purchase the property and it was after his willingness shown to him and then plaintiff and defendant went to the sub-registrar office and where they executed the Agreement to sale the property on 20/01/2024 in the presence of the witness vide registration No 529 and to that effect he had paid him Rs 2,51,000/- through the cheque and through Online payment method and then the agreement to sale was registered after both the parties signed on it and thus the plaintiff have reached the court and thus he wants to restrain the defendants from restraining Defendants from transferring or sale or by creating or making any sort of lien or loan over the disputed suit property or give it away for the rent or for usage till the suit is decided.

- 8) It is crystal clear in the case that suit property is the agricultural land which is given under the Mark 4/1 & 4/2 which are the online certified copies of the office of the Mamlatdar being the Revenue form no 7 & 6 which gives the name of the Plaintiff as the owner and the land of old condition land and being the agricultural land and there is as the/ alleged the consideration money for the agreement to sale was Rs 5,51,000/- .
- 9) Plaintiff have given that their cause of action after the refusal to the do the sale deed after the money was paid to the Defendant and while the

agreement to the sale was done on 20/01/2024 vide the registered no 529/2024 in the sub-registrar office and presented the copy of the same vide Mark 4/3 however it would be worthy to mention here that the copy is the simple xerox and is not the Original/True/certified copy of it and thus authenticity of the same cant be ascertained as per the Principles and law governing the Indian Evidence act regarding the Xerox copy however while moving on the fact it is to be seen that plaintiff has alleged that after the agreement to the sale was done to that effect when the defendant didn't acted upon and thus he had sent the notice for the execution of the conditions of the agreement to sale which was agreed upon by them on 20/01/2025 however there is no mention of the MOU happening between the parties to the suit in the whole plaint but he has presented the copy of the Simple Xerox copy of the MOU dated 28/01/2025 vide Registered no 116/2025 which was notarized before the notary AB Parmar vide Mark 4/4 however if the page 7 there is no date mentioned in it and in the date column its is empty and there is only Month January and Year 2025 is mentioned and advocate on next page; 8 no has written the date at the end of his signature thus casting the cloud on the MOU itself as date of the Agreement/MOU has to be clearly mentioned which is per se not there and raises the brow of the fact when it was agreed and signed upon.

**10)** Moreover Prima-facie the case is about the Sale of the Agricultural land However in the whole plaint no where explained or given out anywhere by the Plaintiff that he can purchase the agricultural land as in the Gujarat it is the Pre-condition that only a

Farmer can buy the agriculture land and nowhere he has given out that he is the farmer and he can buy the agriculture land and with that capacity he can do the agreement with the defendants to purchase the land and thus when there is lack to fact that court cant infringe upon the whole rights of the Defendants.

**11)** Also the very fact that Plaintiff has received the Notice through the advocate of the Defendant vide Mark 4/5 but he presented again simple xerox copy of it however in it on page 1 itself there is mention of year 2023 which they had agreed upon about the sale of the property but it no where finds the mention in the Exhibit 1 plaint or Exhibit 5 interim injunction application and mention the amount of Rs 2,00,000/- as the token amount and rest to be paid in 6 months otherwise it would be deemed to be infructuous and cancelled. While it mentions that land is to be taken by the Government for the Canal through the acquisition method and the relocation was to be done however acquisition has been done as per the Para 2 & 3 on the page 2 of the notice which is no where mention again in the Exhibit 1 plaint or Exhibit 5 interim injunction application and which also finds the mention in the Mark 4/4 MOU documents **which clearly gives out that the Plaintiff has not come to the court with the clean Hand.**

**12)** Also the very fact When the Mark 4/6 document is seen which is the reply to the notice by the Plaintiff to the defendant dated 13/11/2024 **it can be seen that it is simple print out and there is no Signature of the Plaintiff or its advocate on it or seal of the advocate and appears to be drawn on the Letter pad of the Advocate Ammit R**

**Bhatt** and thus prima-facie appears to be suspicious that if he has ever replied to the Notice also as there is no RPAD slip or any receipt which would give out that this alleged Reply to the Notice was ever sent.

**13)** Again If the Mark 4/7 new notice sent to the Plaintiff by the Defendant is seen which is dated 14/11/2024 which is again the Xerox copy which gives out that alleged agreement to sale is being cancelled due to the non-action by the plaintiff and he has asked to take the refund of the Rs. 2,51,000/- by the Defendant to the plaintiff which can be inferred to the fact of the Non- performance of the agreement on the part of the plaintiff.

**14)** Also the very fact When the Mark 4/8 document is seen which is the reply to the notice by the Plaintiff to the defendant dated 27/11/2024 **it can be seen that it is simple print out and there is no Signature of the Plaintiff or its advocate on it or seal of the advocate and appears to be drawn on the Letter pad of the Advocate Ammit R Bhatt** and thus prima-facie appears to be suspicious that if he has ever replied to the Notice also as there is no RPAD slip or any receipt which would give out that this alleged Reply to the Notice was ever sent. Also in this alleged reply to the notice they have given about the land acquisition for the canal purpose but that doesn't find the mention here in the and to effect the plaintiff has not explained any thing in his whole Plaint presented before the court vide Exb 1 or in his interim injunction application presented vide Exhibit 5 **which clearly gives out that the Plaintiff has not come to the court with the clean Hand** while hiding the major facts as the land acquisition done then part of

the property goes to the Government department and in this case he has not made the party nor given a single word about it.

**15)** Also the very fact that Plaintiff; Thakore AmitKumar Keshavbhai has given out that he has given the Rs 2,51,000/- lac through cheque and online method and for that purpose he has presented his bank statement vide Mark 4/12 & 4/13 but when the Name of the account holder of whom the account belongs is to seen then it mentions the name of the Shivam Industries and then Rajesh M Jaiswal HUF is there of The Kalupur Co-operative Bank Ltd. and from whom amount of Rs 44,000 is transferred on 12/03/2025 and amount of Rs 2,60,000 is transferred on 31/01/2025 and other vide Mark 4/13 SBI bank statement of Rajesh M Jaiswal, Sonal R Jaiswal and in that 2 entries of Rs 50,000/- dated 28/11/2023, 28/01/2024 is shown and then along with the Mark 4/13 he has given the statement of the The Kalupur Co-operative Bank Ltd. With the account holder name as Rajesh muljibhai Jaiswal, sonalben Rajeshbhai Jaiswal with the entries of Rs 50,000/- dated 28/11/2023 however there is no mention of the Cheque amount being debited for this or every cheque was cleared from the personal account of the plaintiff but finds its entry in the Joint account. Also the very fact that Alleged sale deed presented vide Mark 4/3 on page 2 gives that amount of Rs. 1,01,000/-was given in cash however there is no mention of the cash amount being given to the defendant in the Either in the whole Plaint presented before the court vide Exb 1 or in his interim injunction application presented vide

Exhibit 5 cheque and Thus there is extreme variations in the version of the plaintiff and the Xerox copies cant be relied upon

16) Also the very fact that From the agreement to the sale has been done by the plaintiff and the defendants and to that extent documents produced by the plaintiff vide Mark 4/4 to 4/9 shows that there was some land acquisition going on but whole Plaint presented before the court vide Exb 1 or in his interim injunction application presented vide Exhibit 5 is silent about it. Thus court can assume to the fact there was some land acquisition going on and if that land acquisition is completed than allowing this application would be nearly encroaching upon the others right without being hearing him as the plaintiff has not made the party to him .

17) Also the very fact the Agreement shown vide Mark 4/3, 4/4 MOU and Later Mark 4/5- 4/8 is the mere xerox copy and is not the true copy or the attested copy of the original documents and thus cant be relied upon at this stage however when the notice allegedly sent by the plaintiff bears no sign or anything of either Plaintiff or his advocate then also they cant be relied upon and then also Even for the sake of the arguments if this documents is seen vide mark 4/3 and taken care while taking in to the consideration then it doesn't mention or show the it no where mentions the above 2 discussed facts; agricultural status of the plaintiff and thus also it doesn't tilt the balance of the favour in the plaintiff and thus Defendant cant be stopped from entering or restrained from using it freely as it would create it would cause great hardship & loss to Defendant only as it's the agricultural

land and if not allowed for the usage or restrained from taking the loan over it for the farming need then it would be like pressurizing the owner of the land to sell it as the Facility of the KCC or the agricultural loan are the facility available to the Farmers for their agricultural daily needs purpose only and the very fact that there is no fresh & immediate cause to be restraining the defendants at this juncture looking over the reasons accorded as it would lead to the curtailment of the rights of the farmer of doing the farmer or if the land is under acquisition or the government has completed the process then any other person can be termed as interested party in it and no injunction can be passed in favour of the plaintiff as later he could term them as their agents or persons.

18) Also the very fact that plaintiff had produced the copies of the agreement, MOU, notice, bank statements which are not in original and not supported by any affidavit of the witness to it and only 1 witness have signed upon it and the place for the witness no 2 is empty and MOU is notarized with no date mentioned in it but then again is xerox papers and xerox papers have zero value and thus the agreement becomes the part of the evidence which could not be dealt at this stage as the **Authenticity and Accuracy of it cant be appreciated as of now as the** party who alleges; here in the plaintiff; must prove that the photocopy is a true and accurate reproduction of the original, thus this often requires the testimony of the person who made the copy or someone who compared it to the original which can be dealt at the stage of the evidence only and the very fact that until the full contents

of the case compromise deed is taken on record and not seen it would be very dangerous position to rely on half documents and thus also balance of convenience doesn't shifts in the favor of the Plaintiff.

19) The Plaintiff has alleged that defendant would try to sell the property and thus sell could be effected in the terms of the money only and to that effect he cant be compensated upon the basis of the sale deed of the property; if found later on that there by loss could not be easily compensated and there is no sign of irreparable loss to the plaintiff at this juncture however if the property is sold to some another then it would be leading to the multiplicity of the litigation and parties be added to the suit and the litigation and the very fact the Defendant have not come to the court nor Plaintiff has care to explain any thing about the discrepancy about defendant being have accepted that he took the amount of the Rs 2,51,000/- and agreement being done but which agreement and the money given or the MOU or the amount being paid in full despite the notice given of cancelation and refusal and take would be proved after taking the evidence only.

20) Also it has come on the record that plaintiff has not come into the court with the clean hand and have knowingly hidden the essential facts of the land acquisition and So at this juncture after perusing the records, it seems to this court that the plaintiff is not having the prima facie case or the "balance of convenience" lies in the favour the Plaintiff nor the plaintiff will suffer the irreparable loss if alienation of the property is allowed as Prima-facie all documents are Xerox and not a single

document is present in original or certified or true copy. Thus, in these circumstances it will be dangerous to accept this application in toto.

E) In the light of the facts stated in the application and in the reply and the arguments advanced by learned counsels, at this juncture, I pass the following final order

**ORDER**

1. The application vide exhibit 5 for the interim injunction under Order XXXIX Rule 1 and 2 for granting of interim injunction restraining Defendants is hereby **Rejected**.
2. Looking to the facts and circumstances of the case, there shall be no order on costs.

Date: 26/02/2026

(Vikas Seoul)

Principal Civil Judge Vaghodia

Place: Vaghodia

Judge Code: GJ01357.