

MHAU050047692025



ORDER BELOW EXH.5 IN Spl.C.S NO.35/2025

(Sagar Sancheti Vs. Ajay Sancheti and others)

The plaintiffs have filed this application for grant of temporary injunction under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure (For short 'the Code').

2] Heard Ld. Advocate for both parties. Perused application and say and documents filed by parties.

3] The plaintiff contended that, the suit property well described in para No. 1 of the plaint is ancestral family property of plaintiff and defendant Nos. 1 to 3. The flow of property was shown in para No. 3 of the plaint. It flows from the great-grand-father of the plaintiff Shantilal till his father Ajay Sancheti. His father defendant No.1 executed sale deed and transferred the suit property to defendant No. 3 Premsing Rajput. Who thereafter executed sale deed and transfer it to defendant No. 3 and her father. Later on they collectively executed gift solely in favour of defendant No.2, who is real brother of plaintiff. All these transaction took place within the period from 2008 to 2021.

4] The plaintiff further submitted that, he want to perform inter caste marriage, which is opposed by defendant Nos. 1 to 3. In order to avoid and deprived the share of plaintiff in the property, all these transaction have take place so as to change the status of suit property from ancestral to separate property of defendant No. 2. The plaintiff is now currently running

the business of selling Sarees by shop namely Sancheti Saree in the suit property. The defendant Nos. 1 to 3 are again trying to alienate the suit property to defendant No.5 and they have shown the suit property to him. Defendant Nos. 1 to 3 are not allowing plaintiff to reside in suit property and threatened him to dispossess from the house. The plaintiff lastly, claims that if the suit property would transfer he will be deprived by suit property as such defendant Nos. 1 to 3 may kindly restrained from temporary restrain as to not transferring, alienating, mortgage of creating third party interest in favour of defendant No.5, or any agent of defendant No.5 and also not to disturb the peaceful possession of the plaintiff in respect of suit property.

5] The defendants appeared and contested the suit by filling their written Statement at **Exh.12**. The defendants have admitted the description of property and pedigree of family and history of property. The defendants have not commented as regard to the various transactions of suit property. As per them the plaintiff has no right to voice against the transactions in between the defendant Nos. 1 to 3 and 5. As per them, the defendant Nos. 1 to 3 are absolute owner of the property and they have need fund therefore, they have entered into agreement with the defendant No.5. The education and well being of plaintiff had been perform by them and the plaintiff ought to have take care of his parents instead of inter case marriage. The said marriage is going to damage the reputation of family. Lastly, they have requested to reject the application for temporary injunction.

6] The points for determination along with my findings thereon with reasons are as follows:-

Sr. No.	POINTS	FINDINGS
1)	Whether plaintiff's proves prima-facie case in their favour ?	Yes.

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| 2) | Whether balance of convenience lies in favour of plaintiffs ? | Yes. |
| 3) | Whether plaintiffs will suffer irreparable loss, if application is rejected ? | Yes. |
| 4) | What order ? | The application is partly allowed. |

REASONS

As to Point Nos.1 to 3 :

7] Point Nos.1 to 3 are inter related and intermingled with each other. Moreover discussion on all the points is on same footing. Hence, it will be legal and proper to discuss all the points simultaneously. Hence, I opt to discuss those simultaneously.

8] Heard both the learned advocates for the parties. Defendants specifically admitted the address of parties, family history, description of properties, pedigree of family property and flow-sheet chart of the suit property. The substantial material is admitted by the defendants. The reply appears formal one. Once the plaintiff is admitted as family member / coparcener of the property he has statutory birth right in the property. The right is absolute and plaintiff cannot be deprived illegally. The right to marry with a person to whom plaintiff has choice cannot be controlled by the defendant Nos. 1 to 3. The fear and objection of defendant Nos. 1 to 3 as regard to the reputation and bad image of the property is baseless and this cannot be reason to deprive plaintiff from his rights in the suit property.

9] The plaintiff is running shop of Sarees in the suit property. The dimensions of the suit property are not clear as to which portion and area, the plaintiff is running the business of Sancheti Sarees as well as residing in the said suit property. The any of suit property is very large near about 134 Sqr.

Mtr., in this large area the possession of plaintiff on a specific portion so as to his shop as well as the residence is not clear. The order without clear dimensions would be vague. So, the relief of temporary injunction as regard to the possession of plaintiff is not established. There are no ambiguity in respect of reasonable apprehension for the transfer of suit property in favour of defendant No.5 by defendant Nos. 1 to 3.

10] The defendants have no good case against the plaintiff per contra the plaintiff is having prima-facie case and balance of convenience in favour of him and irreparable loss will be caused to the plaintiff if temporary injunction is not granted. Hence, I answer points No.1 to 3 in the affirmative and in answer to point No.4, I pass the following order:-

ORDER

1. The application for temporary injunction is partly allowed.
2. The defendant Nos. 1 to 3 shall not alienate, transfer, mortgage, change the nature and create third party interest in favour of defendant No.5 until the disposal of suit.
3. The relief of temporary injunction as regard to peaceful possession of plaintiff is denied since the area of occupation and business of plaintiff is not clear in the suit.
4. It is not necessary to mention here that the temporary injunction granted by this order is applicable between parties to the suit only and any other person may be take recourse of law as per the law of land.

Place : Vaijapur.
Date : 27.01.2026.

(D. S. Pisal)
Jt. Civil Judge (S.D.,) Vaijapur.