

**REGULAR CIVIL SUIT NO 196 of 2022****Order below Exhibit-5 Interim Injunction**  
**Application**

(1) This is an application filed by the plaintiffs for seeking temporary injunction restraining defendants from interfering with plaintiff's peaceful possession of property situated at village Valad, taluka and district Gandhinagar originally bearing block/survey no. 28 (old block survey no. 247/1) admeasuring 05-8-68 hec. arc. sqr.mtr, block/survey no. 29 (old block/survey no. 247/2) admeasuring 0-60-70 sqr. mtrs., block/survey no. 30 (old block/survey no. 247/3) admeasuring 1-21-41 sqr. mtrs., block/survey no. 441 (old block/survey no. 247/4) admeasuring 0-04-05 sqr. mtrs., block/survey no. 442 (old block/survey no. 247/6) admeasuring 0-71-83 sqr. mtrs., block/survey no. 443 (old block/survey no. 247/5) admeasuring 0-69-81 sqr. mtrs. (hereinafter referred to as "suit land"). It is contended in the application that the plaintiffs and the defendants are the lineal descendants of late Shakaraji Lalluji Vyas. The plaintiffs claim

their lineage through late Shardaben Shakaraji, daughter of late Shakaraji Lalluji Vyas, whereas the defendants claim through late Mangaji Shakaraji Vyas, son of late Shakaraji Lalluji Vyas. It is the case of the plaintiffs that the agricultural lands bearing Survey Nos. 638, 639 and 674 situated at village Naroda were originally held jointly as ancestral/joint family properties by the predecessors of the parties, namely Arvindbhai Chhotalal Vyas (predecessor of the plaintiffs) and Mangaji Shakaraji Vyas (predecessor of the defendants). According to the plaintiffs, after the year 1996, the predecessor of the defendants, namely Mangaji Shakaraji Vyas, illegally disposed of the said ancestral agricultural lands situated at village Naroda and from the income derived therefrom acquired the lands which are the subject matter of the present suit. It is further the case of the plaintiffs that the name of Arvindbhai Chhotalal Vyas was illegally deleted from the Record of Rights of Survey No. 639 by the defendants, thereby depriving the plaintiffs' predecessor of his lawful rights as a co-owner and agriculturist. Upon coming to know about such acts, the plaintiffs' predecessor Arvindbhai

Chhotalal Vyas preferred an objection application before the competent authority on 11.02.2010 against the mutation entry whereby his name was removed. During the said proceedings, defendants no.1 and 3 allegedly filed an affidavit admitting the rights of Arvinbhai Chhotalal Vyas and assured that the mutation entry no. 16670 deleting his name would be canceled and his name would be restored in the revenue record as a co-holder.

However, as per the pleading of the plaintiffs, despite such assurance and undertaking, the defendants did not act accordingly and subsequently, around in the year 2013, disposed of the land bearing Survey No.639 situated at village Naroda in favor of third parties, thereby depriving the plaintiffs' predecessor of his agricultural rights. The plaintiffs have further stated that upon learning about such acts, their predecessor Arvinbhai Chhotalal Vyas suffered severe shock and subsequently expired on 21.08.2011. After his death, the plaintiffs instituted Regular Civil Suit No.272 of 2013 before the learned City Civil Court, Ahmedabad with regard to the land bearing Survey No.639

situated at village Naroda. The plaintiffs further contend that during the pendency of the earlier litigation, they came to know that the predecessor of the defendants had disposed of the joint family agricultural lands situated at village Naroda around in the year 1996 and from the proceeds thereof had acquired the suit lands in the year 1998. According to the plaintiffs, the defendants have thus unlawfully deprived the plaintiffs from their rights in the joint family agricultural properties and have acquired and held agricultural lands by illegally extinguishing the rights of the plaintiffs as co-owners. It is further stated that upon gaining such knowledge, the plaintiffs issued a legal notice dated 16.03.2022 through their advocate calling upon the defendants to enter the names of the plaintiffs as co-owners in the Record of Rights of the suit lands. The said notice was served upon the defendants on 17.03.2022. However, despite receipt of the notice, the defendants neither complied with the demands made therein nor restored the plaintiffs' rights and instead attempted to further alienate the suit lands in favor of third parties. Under these circumstances,

the plaintiffs have filed the present suit seeking declaration of their rights in the suit property and for permanent injunction against the defendants. Along with the suit the present application is moved seeking interlocutory injunction against the defendants.

- (2) The summons were ordered to be issued to the defendants which came to be duly served and the defendants appeared to file a reply to the said application. The defendants in their reply recorded at Exh. 10, assert that the suit and injunction application are false, frivolous, vexatious, mala fide, and an abuse of the process of law, filed only to harass the defendants and to cloud their clear title over the suit property. The suit lands are the self-acquired properties of the defendants' predecessor, late Mangabhai Shakrabhai Vyas, purchased through registered sale deed bearing registration no. 1079 dated 20-03-1998, after paying full consideration. Hence, the plaintiffs have no right, title, interest, or share therein. The ancestral lands of late Shakraji Lalluji vested exclusively in his only son Mangabhai upon his death in 1947. The name of Mangabhai

Shakarabhai Vyas, son of Shakaraji Lallubhai Vyas, was entered in the revenue records of the lands bearing Survey nos. 638, 639 and 674 situated at Naroda vide Entry No. 3218 dated 30-10-1947, which was duly certified. The said lands were originally owned by Shakarabhai Lallubhai. Upon the death of Shakarabhai Lallubhai on 02-12-1947 intestate, his only son and legal heir in the direct line, Mangabhai Shakarabhai Vyas, was recorded as the heir in the revenue records of the said lands as per the law prevailing at that time through Mutation Entry No. 3218 dated 30-10-1947, which was duly certified. As per the then prevailing Hindu law, since daughters had no inheritance rights prior to the Hindu Succession Act, 1956, which operates prospectively only. Therefore, the plaintiffs' predecessor (through daughter's line) never acquired any legal share, and consequently no joint family nucleus existed for acquisition of the suit lands. It is further submitted that the plaintiffs have deliberately failed to disclose when and in what manner the names of their elders, Arvindbhai Chhotalal Vyas and Shardaben Chhotalal, were removed from the revenue record of Survey Nos. 638 and 674 of

village Naroda. It is further submitted that The Plaintiffs have also not stated that either they or their predecessor Arvindbhai Chhotalal Vyas ever raised any objection or dispute regarding the registered sale deeds executed in respect of Survey Nos. 638 and 674. No such pleadings or documentary evidence have been produced in the present suit.

It is further submitted that the Plaintiffs' predecessor, along with other co-owners, had executed a power of attorney, pursuant to which the lands bearing Survey Nos. 638 and 674 were sold by the constituted attorney. The Plaintiffs' predecessor and the other co-owners had knowledge of such transactions from the very beginning and never raised any objection or dispute in that regard. Further, with respect to the properties sold under the registered sale deeds of Survey Nos. 638 and 674 and the property bearing Survey No. 639, the purchasers have obtained necessary permissions from the competent authorities, completed construction, and have even sold the constructed properties. The Plaintiffs are fully aware of these facts. It is also submitted that the registered sale deeds

concerning Survey Nos. 638 and 639 have been accepted and acknowledged by the family members of the Plaintiffs. The Plaintiffs themselves have admitted in the plaint that their predecessor Arvindbhai Chhotalal Vyas expired on 21-08-2011. During his lifetime, he never asserted any right, claim, or objection in respect of the suit land. Moreover, none of the daughters of Shakaraji Lalluji or their heirs have ever raised any objection or dispute against the Defendants' predecessor regarding the suit property.

Definitely, revenue entries relied upon by the plaintiffs do not confer title and have only fiscal value. The plaintiffs have already filed earlier litigation regarding survey no. 639, which is pending before City Civil Court, Ahmedabad bearing RCS No. 272/2013, and the present suit is a multiplicity of proceedings with ulterior motive. The claim is barred by limitation, estoppel, suppression of material facts, and violates the Transfer of Property Act, Hindu Succession Act, Registration Act, Specific Relief Act, and Limitation Act. The defendants are lawful owners in continuous possession, and no prima facie case, balance of convenience, or irreparable injury is

made out for grant of injunction.

(3) The Ld. Adv. for the plaintiff has argued as per his application therefore, the same is not repeated for the sake of brevity.

(4) The Ld. Adv. for the defendant has brought his written arguments on record vide Exh. 37 which is in line with their reply therefore, the same is not repeated for the sake of brevity. Further, praying that the interim injunction application deserves rejection with heavy costs. In support of the argument, the Ld. Adv. for the defendant has relied on Vardhabhai Gordhanbhai v/s. Gangaben, daughter of Mohanbhai Gordhanbhai reported in 1982 GLH 1006; 1983 1 GLR 359.

(5) Following issues arise in the said case:-

- 1) Whether the plaintiff is entitled for the relief as prayed for ?
- 2) What order?

My findings on the above points are as under. :-

- 1) In the negative
- 2) As per final order

(6) This is an application for temporary injunction and there are three basic principles for granting or refusing to grant temporary 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 these 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 considered at the time of deciding injunction application which are "He who seeks equity must do equity" and "He comes to equity must come with clean hand".

- (7) I have heard learned advocates for both sides at length. I have perused the pleadings, documents produced on record and written submissions. It is well settled that, while deciding an application for interim injunction, the Court is required to examine whether a prima facie case exists in favour of the plaintiff or not. The grant or refusal of an interim injunction lies within the discretionary jurisdiction of the Court. However, such discretion must be exercised judiciously, fairly, and in accordance with the settled principles laid down by judicial precedents. An injunction is not to be granted lightly, as it adversely affects the rights of the opposite party. Before granting interim relief, the Court must satisfy itself on the following three essential ingredients: That the plaintiff has established a prima facie case; That the balance of convenience lies in favour of the plaintiff; and That refusal of the injunction would cause irreparable injury to the plaintiff.
- (8) Now, if we discuss the prima facie case involved in the present case, a prima facie case does not mean that the plaintiff must conclusively prove his

case at this stage. It only requires the plaintiff to demonstrate that there exists a serious triable issue which merits investigation at trial. The Court must be satisfied that the claim is not frivolous and that the material placed on record is legally admissible and capable of supporting the claim if ultimately proved.

- (9) Considering the settled legal position, if we peruse the record then the suit lands stand in the name of the defendants' predecessor by virtue of a registered sale deed dated 20-03-1998. Though no documentary material is produced to prima facie demonstrate that the sale consideration emanated from any proved joint family property or their money. Mere existence of ancestral property does not automatically establish that subsequent acquisitions are joint family properties unless a substantial and existing nucleus is shown. The plaintiffs have not placed prima facie material showing availability of sufficient joint family nucleus at the relevant time to purchase the suit lands. However, at the stage of interim injunction, the Court is not required to enter into a detailed appreciation of evidence or record

findings on disputed questions of fact. A detailed examination of evidence is a matter for trial.

(10) In the present case, it is noteworthy that the plaintiff has earlier instituted Regular Civil Suit No. 272 of 2013 against the same defendants and some others. If the same party has instituted another suit before another court with the same prayer then this Court is unable to understand why this relief is not sought in the earlier civil suit and why plaintiff didn't claim this prayer in the earlier civil suit. Therefore, this Court is of the opinion that the plaintiff is not entitled for the same prayer before two different Civil Courts. In view of the aforesaid facts and circumstances, there appears to be reasonable grounds to believe that the plaintiff has not approached this Court with complete candor and has suppressed certain material facts while seeking interim relief.

A party seeking equitable relief of injunction is required to make full and fair disclosure of all relevant facts. Suppression of material facts disentitle the plaintiff from discretionary relief. Therefore, the interim relief prayed for by the plaintiff does not appear to merit consideration.

(11) Further, upon perusal of the plaint and the interim application, it is evident that the plaintiff himself has admitted that the inheritance entries, which are now sought to be challenged in the present proceedings, were mutated in the revenue record in the year 1996 after the death of the predecessor in title, and the names of all concerned persons were entered at that time. The plaintiff has further admitted that an objection application against the said revenue entry was also filed as early as 11.02.2010. The plaintiff has further admitted that the earlier civil suit was filled in the year 2013. In light of this admission, it cannot be accepted that the plaintiff became aware of the disputed entries only in the year 2022 at the time of filing the present suit. The plea of recent knowledge, therefore, does not appear to be prima facie credible. It is true that a plaintiff is at liberty to raise all his disputes in an appropriate proceeding. However, it is noteworthy that the plaintiff had earlier instituted Regular Civil Suit No. 272 of 2013 concerning related subject matter, yet the present disputes were not incorporated therein. No satisfactory explanation has been offered for instituting a fresh suit raising

substantially similar grievances after such delay. In these circumstances, the conduct of the plaintiff and the delay in approaching the Court disentitle him from the equitable and discretionary relief of interim injunction.

(12) As the plaintiff has failed to establish prima facie right, title or legally enforceable interest in the suit property, the essential conditions required for grant of interim injunction are not satisfied. Hence, this Court does not find it appropriate to grant the injunction as prayed for.

(13) Further, the plea that property devolved through daughter's line prior to enactment of the Hindu Succession Act raises serious legal issues which cannot be decided at this interlocutory stage in favour of the plaintiffs. In view of the registered title deed and absence of prima facie evidence of joint family nucleus, this Court is of the opinion that the plaintiffs have failed to establish a strong prima facie case.

(14) Now, for the discussion about the Balance of Convenience. In addition to establishing a prima

facie case, the plaintiff must also demonstrate that denial of interim relief would result him in irreparable loss or injury which cannot be adequately compensated in terms of money. Further, the plaintiff must show that greater hardship or inconvenience would be caused to him by refusal of injunction than would be caused to the defendant by its grant. In other words, the balance of convenience must tilt in favour of the plaintiff. For that term if we read the case records than the defendants are recorded owners and are stated to be in possession of the suit lands since 1998. Nothing has been shown by the plaintiff that they enjoy the suit land till date and defendants' predecessor was only in charge of the administering the land. So, looking to that fact grant of injunction would restrain the recorded owners from dealing with their property. In absence of a prima facie right established by the plaintiffs, balance of convenience does not tilt in their favour also.

(15) Now, if we discussed about Irreparable Injury than the plaintiffs have not demonstrated any immediate threat of alienation supported by

material on record. Mere apprehension without substantiating material is insufficient.

(16) In case the plaintiffs ultimately succeed, appropriate relief can be moulded at final adjudication. In absence of proof of prima facie case, balance of convenience and irreparable injury, the plaintiffs are not entitled to discretionary relief of temporary injunction. Therefore, in view of the discussion herein above, I answer issue no. 1 in negative and hereby pass the following order for issue no. 2:-

**ORDER**

1. The application is hereby rejected.
2. No order as to costs.

Pronounced in open court today on this 12<sup>th</sup>  
day of March, 2026.

Place : Gandhinagar  
Date : 12.03.2026

(F. N. Solanki)  
3<sup>rd</sup> Addl. Civil Judge, Gandhinagar  
Judge code: GJ01552