



Order below Exhibit-5

1. Heard. Read. Perused.
2. The plaintiffs have instituted the present suit seeking the reliefs of specific performance, declaration and permanent injunction in respect of land bearing Block/Survey No. 64, out of total land measuring 1-00-19 Hectare-Are-Sq.Mtrs., an undivided share of Defendant No. 1 measuring 834.99 Sq.Mtrs. (hereinafter referred as "suit property").
3. The applicant/plaintiff has filed the present application seeking interim injunction, inter alia, stating that the suit land, being an undivided share of the applicant/plaintiff's vendor—Defendant No. 1 admeasuring 834.66 sq. mtrs. out of the total land bearing Survey No. 64 situated at village Zundal, Registration District and Sub-District Gandhinagar, devolved upon Defendant No. 1 and other co-heirs by way of inheritance upon the demise of the original occupants, and that Defendant No. 1, representing himself to be the lawful owner in enjoyment of the said share, entered into a registered/notarized Agreement to Sell dated 04/01/2018 with the applicant/plaintiff for a total consideration of Rs. 40,00,000/-, out of which Rs. 25,00,000/- was paid and accepted by Defendant No. 1 as earnest money, undertaking thereunder to obtain the Title Clearance Certificate, accept the balance consideration and execute a registered Sale Deed in favour of the applicant/plaintiff; that despite repeated

requests, Defendant No. 1 failed and neglected to comply with the said terms, and it has come to the knowledge of the applicant/plaintiff, upon verification of the revenue record about a month prior to filing of the present application, that Defendant No. 1, during the subsistence of the said Agreement to Sell and without the knowledge or consent of the applicant/plaintiff, relinquished his share in favour of the other co-sharers, and is apprehended to be attempting to alienate the suit land in favour of third parties; and that in the absence of an interim order, the applicant/plaintiff is likely to suffer irreparable loss and injury which cannot be compensated in terms of money, the balance of convenience lying in favour of the applicant/plaintiff, and has accordingly prayed for an ad-interim injunction restraining the Defendants from transferring, encumbering, creating third-party rights in, or otherwise dealing with the suit land in any manner, pending final disposal of the suit.

4. The defendants no. 2 to 9 did not turn up before the Court either themselves or through their Advocates and thereafter the suit was ordered to be proceeded in ex-parte manner against the defendants no. 2 to 9, by passing an order vide Exh.-1 in rojkam on 22.12.2025. The suit against the defendant no. 1 stands abated.

5. While adjudicating an application for temporary injunction, the settled parameters to be applied are: (i) existence of a prima facie case, (ii) balance of convenience, and (iii) likelihood of irreparable loss. These factors must cumulatively favour the applicant.

6. Heard learned counsel for the plaintiff. On a perusal of the record, it emerges that the Agreement to Sell relied upon by the

applicant/plaintiff is dated 04/01/2018, and admittedly the same is an unregistered document. Further, the plaintiff has, for the first time, issued notice calling upon Defendant No. 1 to execute the sale deed only in the year 2025, and for the entire intervening period of nearly seven years, no material particulars such as dates, correspondence, or any documentary evidence have been placed on record to substantiate the bald assertion made in the plaint that the applicant/plaintiff "approached the Defendants on many occasions" for execution of the registered sale deed. Mere vague and unsubstantiated averments of having approached the Defendants, unsupported by any cogent material, cannot be accepted as sufficient to establish readiness and willingness on the part of the plaintiff to perform his part of the contract during the said period. Furthermore, the Agreement to Sell produced at Mark 3/2 is conspicuously silent as to the mode of payment of the alleged consideration of Rs. 25,00,000/- said to have been paid as earnest money, and no cheque number, bank account particulars, receipt, or other corroborative material has been placed on record to substantiate the said payment. Infact, there is even no mention of any cash payment. The silence as to mode of payment creates suspicion over the payment towards part consideration made by the plaintiff. In view of the above, this Court is of the considered opinion that the plaintiff has failed to make out a prima facie case, nor has he demonstrated that the balance of convenience lies in his favour or that he would suffer irreparable loss, and the application for interim injunction, being devoid of merit, is accordingly rejected.

ORDER

- (i) The present application stands rejected.
- (ii) The cost shall be determined at the time of the final judgment.

Announced in open Court.

(Himanshu Choudhary)

25/08/2026

4th ASCJ, Gandhinagar; GJ01180