

IN THE CITY CIVIL COURT AT AHMEDABAD**CIVIL SUIT NO.795 OF 2024****Order below exhibit-6-7 (Notice of motion application)**

1. The plaintiffs have filed the suit and seek an injunction restraining the defendant from selling, transferring, alienating, creating third-party rights, or altering the property.
2. Short facts of the application :

(a) The present plaintiffs, are real brothers and lawful citizens of India.

The suit pertains to Kalyan Bhawan Bungalow property admeasuring 1237 sq. mtrs. situated at Mouje Naroda, Ahmedabad. The suit property was jointly purchased by plaintiffs' father Birendrasingh Kalyansingh Bhadoriya and defendant Govindsingh Kalyansingh Bhadoriya, who are brothers, through a registered sale deed dated 07.02.1996. Though the property was purchased jointly, the entire sale consideration was paid by plaintiffs' father from his own income. plaintiffs' father renovated the property and installed movable assets including a tower with the consent of the defendant.

(b) After the death of plaintiffs' mother and subsequently father on 04.03/2022, plaintiffs inherited their father's rights in the property. The defendant, who is plaintiffs' uncle, allegedly became greedy and attempted to take exclusive control of the property. The defendant allegedly created disputes, used force, and deprived plaintiffs from peaceful enjoyment of the property. Family members and well-wishers attempted settlement and oral partition, wherein plaintiffs were to receive half share and defendant the remaining half share.

- (c) Despite the understanding, the defendant refused to honour the settlement and continued occupying major portion of the property. plaintiffs claim that the defendant is illegally interfering with their lawful rights and attempting to create third-party interests. plaintiffs requested partition of the property by metes and bounds, but the defendant failed to cooperate. Therefore, plaintiffs have filed the present suit seeking partition and protection of their share in the property. plaintiffs seek an injunction restraining the defendant from selling, transferring, alienating, creating third-party rights, or altering the property.
3. The defendants appears through their learned Advocate and contested the present application by filing the written statement at exhibit-28 wherein mainly stated that.....
- (a) The plaintiffs have no legal right or authority to file the present suit or seek the reliefs prayed for in the injunction application. Except for specifically admitted facts, all allegations made by the plaintiffs are denied as false, incorrect and not legally sustainable.
- (b) The plaintiffs' claim is barred by the principles of estoppel and waiver and therefore the injunction application deserves dismissal. The plaintiffs have suppressed material facts and have not approached the Court with clean hands. The suit and injunction application are not properly valued and are not filed with proper court fees; hence they are liable to be rejected.
- (c) Though the suit property stands jointly in the names of the parties, the consideration amount for purchase was paid by the defendants through their father, and the plaintiffs have produced no proof of contribution. The plaintiffs are only formal parties in the documents

and cannot claim exclusive rights over the property or income arising therefrom. The construction, development and expenses relating to the Reliance tower, office and residence were also contributed by the defendants, but the plaintiffs are exclusively enjoying the benefits and income. The plaintiffs have failed to render accounts of lease income and other benefits derived from the joint property despite repeated demands by the defendants.

(d) Allegations that the defendants created disputes, threatened or acted illegally are false, baseless and unsupported by evidence; even complaints were found without substance. The plaintiffs have filed the present proceedings with ulterior motive to avoid partition and accounting of income from the joint property. Hence, the suit and injunction application are false, frivolous and vexatious and deserve to be dismissed with cost.

4. The plaintiffs has filed the rejoinder against the reply at exhibit-30 wherein mainly stated that the plaintiffs denies all averments, allegations and contentions raised by the defendant in the reply, except those specifically admitted. The defendant has not approached the Court with clean hands and has attempted to mislead the Court through false and frivolous claims.
5. The suit property was jointly purchased by plaintiffs's father and defendant with equal shares through a registered sale deed dated 07.02.1996. plaintiffs's father developed and maintained the property, including installation of Reliance tower and other structures with the consent of the defendant. Defendant's claim of providing financial assistance is baseless and unsupported by any documentary evidence. In fact, defendant is in illegal possession of major portions of the suit property and is enjoying benefits without plaintiffs's consent.

plaintiffs have always been ready for equitable partition, whereas defendant has obstructed partition and attempted alienation of the property. The defendant's reply is false and misleading; hence the plaintiffs reiterates the prayer for partition of the suit property with respective 1/2 shares and easementary rights.

6. Heard learned Advocate Mr. D.M.Bunha for the plaintiffs and learned Advocate Mr. A.S.Pasi for the defendants. Perused the Notice of Motion, replies filed by defendants and rejoinder, documents produced on record and the averments made therein.
7. On perusal of the record, it clearly appears that the suit property has been purchased by two brothers namely Birendrasingh Kalyansingh Bhadoriya and Govindsingh Kalyansingh Bhadoriya, in the year 1996 by registered sale deed bearing No.472, dated 07.02.1996. The plaintiffs are sons of deceased Birendrasingh Kalyansingh and defendant is brother of deceased Birendrasingh Kalyansingh. The present suit has been filed by the plaintiffs seeking a decree for the partition and separate possession in respect of the suit property in favour of the plaintiffs thereby dividing the suit property in view of ½ share to the plaintiffs and ½ share to the defendant along with the easementary right.
8. The plaintiffs has produced the sale deed, photographs and padhiname vide mark 4/1 to 4/3. The plaintiffs are legal heirs of Birendrasingh Kalyansingh Bhadoriya being sons and defendant is real uncle of the plaintiffs. On perusal of the mark 4/1 i.e. sale deed, it clearly appears that suit property has been purchased in joint names by the father of the plaintiffs and defendant. Upon considering the factual aspect of the case and suit property is alleged to be of ownership of all the parties. When both the parties are claiming co-ownership qua the suit property

in that case there is prima facie case of all the parties, balance of convenience also in favour of the all parties and if injunction would not be granted it would caused great hardship to the parties. Therefore, it is required to protect the suit property from any kind of alienation by any one in any manner. Hence, following order is passed

ORDER

1. Both the parties shall maintain status qua suit property till final hearing of the suit.
2. No order as to costs.

Date : 15.06.2026

[Altaf M. Memon]
Chamber Judge,
City Civil Court, Ahmedabad.
(Unique I.D. Code No.GJ00674)

Manoj