

Order Below Exhibit - 5

1. The present application has been preferred by the plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, seeking a temporary injunction restraining the defendants, their agents, servants, or any person claiming through or under them from interfering with the plaintiff's peaceful possession and enjoyment of the land bearing Survey/Block No. 1247 (New Survey/Block No. 1054), admeasuring Hectare-Are-Square Metres 0-67-24, assessed at Aakar Rs. 3.60, situated at Village Kuha, Taluka Daskroi, District Ahmedabad, Sub-District Ahmedabad. The plaintiff further seeks an order restraining the defendants from alienating, transferring, encumbering, or creating any third-party rights, title, or interest in respect of the said land pending the final disposal of the suit. Hereinafter, the aforesaid land shall be referred to as the "suit land."
2. It is the case of the plaintiff that Defendants Nos. 2 to 8 executed and registered Sale Deed No. 10212 dated 22.07.2010 in her favour in respect of the suit land after receiving full sale consideration, pursuant to which she claims to have become the owner and possessor thereof. According to the plaintiff, the corresponding mutation entry could not be

effected due to technical reasons and the ongoing promulgation process. It is further contended that, despite the aforesaid sale, Defendants Nos. 2 to 8 executed a Power of Attorney in favour of Defendant No. 9, who, on the strength thereof, executed Sale Deed No. 723 dated 23.05.2017 in favour of Defendant No. 1 in respect of the same land. The plaintiff alleges that the subsequent sale transaction is fraudulent, illegal, and void, as the earlier sale deed executed in her favour has neither been cancelled nor set aside by any competent authority. The plaintiff has further submitted that Mutation Entry No. 10360, effected on the basis of the sale transaction in favour of Defendant No. 1, was challenged before the revenue authorities and ultimately came to be rejected. Thereafter, Mutation Entry No. 13477 was certified on 05.01.2022 and the plaintiff's sale transaction was subsequently mutated vide Entry No. 13652 dated 19.01.2022. The plaintiff has also lodged an FIR against the concerned defendants alleging fraudulent transfer of the suit land. The plaintiff, therefore, contends that she has a prima facie case on the basis of the registered sale deed and the subsequent revenue entries in her favour, that the balance of convenience lies in her favour, and that, in the absence of interim protection, she would suffer irreparable loss and injury if the

defendants are permitted to interfere with the suit land or create third-party rights therein. On these grounds, the plaintiff has sought a temporary injunction restraining the defendants from interfering with her alleged possession of the suit land and from alienating, transferring, or creating any third-party rights therein pending the final disposal of the suit.

3. The defendants were duly served with the summons and notices of the Court and appeared through their respective learned Advocates. However, despite sufficient opportunities having been granted, Defendants Nos. 2 to 9 failed to file their reply or objections to the present application. Consequently, by order dated 20.03.2025 recorded in the Rojkam, the learned predecessor of this Court closed their right to file reply.
4. Defendant No. 1, however, filed his written statement at Exh. 9 opposing the claim of the plaintiff in toto. It is contended by Defendant No. 1 that he is the lawful purchaser of the suit land by virtue of registered Sale Deed No. 723 dated 23.05.2017 executed in his favour by Defendant No. 9 as the Power of Attorney holder of Defendants Nos. 2 to 8. It is further contended that the property described in the sale deed relied upon by the plaintiff is different from the property

purchased by Defendant No. 1, inasmuch as the survey/block numbers, khata numbers and boundaries mentioned in the respective sale deeds are not identical. According to Defendant No. 1, the sale deed relied upon by the plaintiff pertains to Block/Survey No. 1247 (Old Survey No. 728), Khata No. 237, whereas the sale deed executed in his favour pertains to Block/Survey No. 1054 (Old Survey No. 1247), Khata No. 337. On the basis of these discrepancies, it is contended that the suit land claimed by the plaintiff is distinct from the land purchased by Defendant No. 1 and, therefore, the present suit is not maintainable. Defendant Nos. 1 and 9 have also filed their written submissions at Exh. 24 reiterating the aforesaid contentions. It is, therefore, prayed that the present application for temporary injunction be rejected with costs.

5. In support of her case, the plaintiff has relied upon documentary evidence produced at Mark 3/1 to Mark 3/18, comprising, inter alia, the disputed sale deeds, relevant revenue records, and a copy of the FIR lodged against the defendants. Defendant No. 1, in support of his defence, has produced documents at Mark 20/1 to Mark 20/4, including revenue records relating to Survey Nos. 1247 and 1054 and a copy of the order of the Hon'ble Sessions Court granting him regular bail.

6. Heard learned Advocates for the respective parties and perused the pleadings, documents and material available on record. The principles governing grant or refusal of temporary injunction are well settled, namely: (i) existence of a prima facie case in favour of the applicant; (ii) balance of convenience lying in favour of the applicant; and (iii) likelihood of irreparable loss or injury being caused to the applicant if the injunction is refused. It is further settled that injunction is an equitable and discretionary relief, which must be exercised judiciously on sound legal principles, keeping in view the facts and circumstances of each case as well as the conduct of the parties.
7. In the present case, it emerges from the record that the plaintiff asserts her right, title and interest over the suit land on the basis of a registered Sale Deed No. 10212 dated 22.07.2010 executed in her favour by Defendants Nos. 2 to 8 after receipt of full sale consideration. It further appears that pursuant to the said transaction, Mutation Entry No. 13652 has been certified in the revenue records in favour of the plaintiff, thereby reflecting her name in the revenue record in respect of the suit land. It also transpires that the mutation entry recorded on the basis of the subsequent transaction in favour of Defendant No. 1 has been rejected by the competent

revenue authority in RTS proceedings, thereby weakening the basis of the claim set up by Defendant No. 1 at least at the prima facie stage.

8. It is also an admitted position that the plaintiff is in settled possession of the suit land, which fact is not seriously disputed by the defendants at this stage. Significantly, Defendant No. 1 has himself produced on record the revenue record pertaining to Survey No. 1054 (Old Survey No. 1247), which reflects that the suit land stands mutated in the name of the plaintiff. The plea raised by Defendant No. 1 regarding alleged discrepancies in survey numbers, khata numbers and boundaries essentially raises disputed questions of fact, which would require detailed evidence, comparison of documentary records, and proper adjudication during trial. Such disputed issues cannot be conclusively determined at the stage of deciding an application for temporary injunction.

9. In view of the aforesaid facts and circumstances, this Court is of the considered opinion that the plaintiff has been able to establish a strong prima facie case at this stage of the proceedings. The existence of a registered sale deed in her favour, coupled with the certified mutation entry and her admitted possession over the suit property, prima facie supports her claim and tilts the balance in her favour.

Considering the settled possession of the plaintiff, the balance of convenience also clearly lies in her favour, as any interference at this stage would disturb the existing status quo and lead to unnecessary complications in the subject matter of the suit.

10. Further, if the defendants are permitted to interfere with the plaintiff's peaceful possession or are allowed to create third-party rights, title or interest in respect of the suit land during the pendency of the suit, the same would not only alter the existing factual position but would also result in multiplicity of litigation and render the final adjudication of the suit infructuous or difficult to enforce. Such acts would also cause irreparable loss and injury to the plaintiff, which cannot be adequately compensated in terms of money. Therefore, in the opinion of this Court, all the three essential ingredients for grant of temporary injunction, namely prima facie case, balance of convenience and irreparable loss, are clearly satisfied in favour of the plaintiff at this stage.

11. In view of the foregoing discussion, the Court is of the considered opinion that the plaintiff has made out a case for grant of temporary injunction. The relief is necessary to protect the subject matter of the suit and maintain status quo during the pendency of the proceedings, as well as to secure

the ends of justice. Hence, the following order is passed in the interest of justice:

-:: ORDER ::-

1. The present application vide Exh. 5 is hereby allowed.
2. The defendants, their agents, servants, representatives, or any person acting through or under them are hereby restrained from interfering with the peaceful possession and enjoyment of the plaintiff in respect of the suit land bearing Survey/Block No. 1247 (Old Survey No. 728), New Survey/Block No. 1054, admeasuring Hectare-Are-Square Metres 0-67-24, situated at Village Kuha, Taluka Daskroi, District Ahmedabad, during the pendency and final disposal of the suit.
3. The defendants are further restrained from alienating, transferring, encumbering, or creating any third-party rights, title or interest in respect of the suit land till final disposal of the suit.
4. The defendants shall pay the costs of this application.

Pronounced in the open court on August 10, 2026.

Place: Ahmedabad.

Date : 10/08/2026

**(Alpa Prabhudas Kadiwar)
Additional Civil Judge,
Ahmedabad (Rural).
(Judge Code : GJ-01554)**