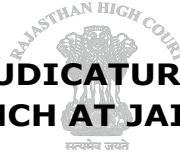




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Miscellaneous Appeal No. 2139/2026

Ramesh Choudhary S/o Kaluram Choudhary, R/o 60/82, Shyopur Road, Pratap Nagar, Sanganer, Jaipur.

----Appellant

Versus

Rameshwar Prasad Choudhary S/o Shri Ramnarain Choudhary, R/o Basa Brijnathpura, Tehsil Chaksu, District Jaipur.

----Respondent

For Appellant(s)	:	Mr. Bajrang Lal Choudhary
For Respondent(s)	:	Mr. Prakhar Gupta with Mr. Sanjay Sharma

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

06/05/2026

1. The present appeal has been filed by the appellant assailing the order dated 07.04.2026 passed by the learned Additional District Judge, Chaksu, Jaipur Metropolitan-I in Temporary Injunction Application No.17/2025, 137/2024 (CIS No.241/2024) titled as '*Rameshwar Prasad Choudhary vs. Ramesh Choudhary*', whereby the application filed by the respondent/applicant for temporary injunction under Order 39 Rule 1 & 2 read with Section 151 CPC, was allowed.

2. Brief facts giving rise to the present appeal are that the respondent (hereinafter referred to as "the plaintiff") filed a suit for cancellation of the sale deed dated 13.08.2013 and for permanent injunction, along with an application for temporary injunction, in respect of the suit property as well as the petrol pump, against the appellant (hereinafter referred to as "the



defendant"). It was averred in the temporary injunction application that the plaintiff is the owner of the petrol pump in question and that, in the year 2012, he inducted the defendant as a partner vide partnership deed dated 13.07.2012, allotting 49% share to the defendant while retaining 51% share with himself. It was further averred that, due to health issues, the plaintiff executed a power of attorney dated 13.08.2023 in favour of the defendant to manage his 51% share in the partnership. However, under the guise of obtaining the plaintiff's signatures for the said power of attorney, the defendant allegedly procured the plaintiff's signatures fraudulently on two agreements to sell dated 13.08.2013 in respect of the suit land as well as the petrol pump, and subsequently got the same executed before the Sub-Registrar, Chaksu on 11.07.2023. Therefore, the plaintiff sought the relief of temporary injunction restraining the defendant from selling or alienating the suit property and from causing any obstruction in the peaceful operation of the petrol pump by the plaintiff.

3. The defendant filed a reply to the temporary injunction application denying all the averments made therein and contended that he is the sole owner of the petrol pump in question. It was further stated that the plaintiff had sold the said petrol pump to the defendant's father, *Shri Kaluram Chaudhry*, vide sale deed dated 03.08.2013 for a total consideration of ₹80,17,000/-, and that the defendant has been in peaceful possession of the property since then. It was also contended that, after the demise of his father, the plaintiff has filed the present suit after an inordinate delay of 11 years with *mala fide* intention, and



therefore prayed for rejection of the temporary injunction application.

4. Thereafter, the learned Trial Court vide order dated 07.04.2026 allowed the plaintiff/respondent's temporary injunction application and directed the appellant to maintain status quo with regard to the suit property and restrained him from creating any obstruction in the operation of the petrol pump.

5. Being aggrieved by which, the appellant has preferred the present appeal.

6. Learned counsel for the appellant submits that while deciding the TI application, the learned Court below neither examined the pleadings of the respondent nor the reply submitted by the appellant. He further submits that the learned Court below has failed to consider and discuss the documents placed on record by the respective parties, and yet proceeded to allow the TI application in cursory manner. He further submits that, even on a perusal of the documents so submitted by the plaintiff/respondent, no *prima facie* case is made out; still the appellant has been restrained. He therefore prays that the impugned order may kindly be set aside or alternatively the matter may be remanded back for fresh adjudication.

7. Per contra, learned counsel for the respondent, while supporting the impugned order, vehemently opposes the said submissions and submits that, though technically the arguments of learned counsel for the appellant are correct to some extent that the pleadings and documents have not been referred to, yet the learned Court below has duly considered the broad aspect of the case while adjudicating upon the issues of *prima facie* case,



balance of convenience, and irreparable loss and rightly passed the impugned order. Therefore, no interference is required with the discretionary order passed by the learned Court below.

8. Heard learned counsel for the parties and perused the material available on record.

9. From a bare perusal of the record, it is evident that the learned Court below erred in deciding the Temporary Injunction application without even referring to the averments made therein and the reply filed thereto.

10. The impugned order also reveals that the appellant has filed numerous documents to substantiate the facts narrated in the reply to the temporary injunction application and that the plaintiff/respondent does not have a *prima facie* case; however, not even a single document has been discussed or considered or referred to while allowing the temporary injunction application. Further the learned Court below has not even considered the judgment cited by the appellant. The aforesaid practice and procedure adopted by the learned trial court cannot be countenanced.

11. Considering the foregoing discussion and without delving in the merits of the case, the impugned order is required to be set aside and the matter is remanded back to the learned Trial Court to decide the Temporary Injunction application afresh strictly in accordance with law, after duly considering the pleadings of the parties, reply thereto, and the documents so placed on record, independently and without being influenced by the impugned order or by the present order passed by this Court.



12. The learned Trial Court is directed to re-decide the temporary injunction application preferably within a period of three months from the next date of hearing fixed in the suit.

13. Accordingly, the present appeal is disposed of.

14. All pending application(s), if any, shall stand disposed of.

(MANEESH SHARMA),J

DEEPA-7