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Reserved On : 30/07/2026
Pronounced On : 07/08/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 5287 of 2026

With
CIVIL APPLICATION (FOR VACATING STAY) NO. 1 of 2026
In R/SPECIAL CIVIL APPLICATION NO. 5287 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE MAULIK J.SHELAT

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Approved for Reporting	Yes	No

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BANSHIDHAR PETROLEUM PRIVATE LIMITED & ORS.
Versus
M/S RELIANCE BP MOBILITY LIMITED & ANR.

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Appearance:
MR MITUL SHELAT, SR.ADVOCATE WITH MR B C THAKKAR(11260) for the Petitioner(s) No. 1,2,3,4,5,6,7
MR RANDHIR RAJPUROHIT(13448) for the Petitioner(s) No. 1,2,3,4,5,6,7
MS NOOPUR K DALAL(11259) for the Petitioner(s) No. 1,2,3,4,5,6,7
MR RASHESH SANJANWALA, SR.ADVOCATE WITH MR KASHYAP R JOSHI(2133) for the Respondent(s) No. 1
NOTICE SERVED for the Respondent(s) No. 2

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CORAM:**HONOURABLE MR. JUSTICE MAULIK J.SHELAT**

CAV JUDGMENT

1. Heard Mr.Mitul Shelat, learned Senior Counsel for learned advocate Mr.B.C.Thakkar for the petitioners and

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Mr.Rashesh Sanjanwala, learned Senior Counsel for learned advocate Mr.Kashyap R.Joshi for respondent No.1.

2. Rule returnable forthwith. Learned advocate Mr.Kashyap R.Joshi waives service of notice of rule for respondent No.1. Though served, none appears for respondent No.2. With the consent of the learned advocates for the respective parties, the matter is taken up for hearing.

3. The petitioners herein are the original defendant Nos.1 to 7 – original lessors of the suit property – the defendant, whereas respondent No.1 is the original plaintiff – lessee and respondent No.2 is the original defendant No.8 of Regular Civil Suit No.104 of 2025 pending before the court of learned Principal Senior Civil Judge, Jetpur. For the sake of convenience, herein after, the parties will be referred as per their original status in the suit.

SHORT FACTS

4. The plaintiff entered into the registered lease agreement with the defendant on 02.12.2005 in respect of the suit property which was owned by the defendant. Prior to the aforesaid lease, the plaintiff appointed the defendants as its dealer to run Petrol pump – Retail Outlet on 30.08.2004 on the suit property.

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4.1 The aforesaid lease was for a period of 20 years and it was expired on 02.12.2025. As per condition No.3 (viii) of the lease deed, before expiration of the term of the lease, if a lessee shall desire to renew the lease, it shall have to give notice to the lessor in writing. The lessor shall grant to lessee the renewed lease of demised premises (the suit property) for further term equivalent to terms agreed at the time of execution of the lease deed.

4.2 The dealership agreement between the plaintiff and the defendants came to an end on 20.03.2025, whereby the plaintiff vide its letter dated 20.03.2025, terminated dealership agreement with the defendant. The defendant, in turn, handed over possession of the Retail Outlet - Petrol pump to the plaintiff. There is an endorsement made by the defendant in the aforesaid letter that upon expiry of lease on 02.12.2025, the plaintiff will have to hand over possession of the suit property to the defendant.

4.3 As per the aforesaid terms, before expiry of the lease deed, the plaintiff *vide* its letter dated 01.08.2025 requested the defendants to renew the lease which was denied by the defendants vide their letter dated 19.08.2025. Again, the plaintiff *vide* its letter dated 06.11.2025 requested the defendants to come forward to renew the lease deed as per the terms and conditions contained

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therein. The defendant in terms denied such request *vide* email dated 14.11.2025.

4.4 Since the defendant has not shown inclination to renew the lease, the plaintiff has instituted Regular Civil Suit No.104 of 2025 before the Trial Court on 24.11.2025. The aforesaid suit is filed seeking specific performance of the agreement executed between the parties, i.e., lease deed. The plaintiff also sought an interim injunction by way of filing an injunction application below Exh.5. The injunction application filed under Order XXXIX of CPC. The Trial Court issued the notice in the aforesaid suit on 24.11.2025 which was received by the defendant on 04.12.2025.

4.5 The plaintiff appears to have filed an application dated 02.12.2025 to Jetpur City Police Station seeking police protection as apprehending the force which may be applied by the defendant and may interfere in its possession.

4.6 It appears that before the service of notice / summons upon the defendants, they took possession of the suit property from the plaintiff on 03.12.2025. According to the defendant, possession of the suit property was handed over by the plaintiff without any protest, whereas according to the plaintiff, it was obtained by force.

4.7 The plaintiff filed impugned application below Exh.7 on 11.12.2025 under Section 6 of the Specific Relief

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Act 1963 (hereinafter referred as "***the Act of 1963***" for short) read with Section 151 of CPC for restoration of its possession.

4.8 The plaintiff has simultaneously preferred the amendment application under Order VI, Rule 17 of the CPC on 11.12.2025 whereby sought amendment in the prayer of the suit as well as injunction application. The plaintiff sought to amend the suit by incorporating the aforesaid subsequent event taken place after filing of the suit and to add the consequential prayers in this regard. The amendment application is pending as on date.

4.9 The defendant appears to have objected to the impugned application as well as amendment application by filing reply on 17.01.2026 and 15.01.2026 respectively.

4.10 After hearing the parties, the Trial Court *vide* its impugned order dated 18.03.2026 allowed the impugned application, whereby directed the defendants to restore possession of the suit property to the plaintiff within 15 days from the date of the order. It is also observed that both the parties shall maintain status quo as to possession and nature of the suit property as restored pursuant to this order till the final disposal of the suit.

4.11 Feeling aggrieved and dissatisfied with the aforesaid impugned order, the defendant Nos. 1 to 7 have

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approached this Court by way of this petition filed under Article 227 of the Constitution of India.

SUBMISSION OF PETITIONERS – DEFENDANT:

5. Mr.Mitul Shelat, learned Senior Counsel assisted by Mr.B.C.Thakkar, learned advocate for the petitioners, has made the following submissions.

5.1 The Trial Court has committed jurisdictional error by allowing the impugned application which was essentially filed under Section 6 of the Act of 1963. It is submitted that as per Section 6 of the Act of 1963, the Trial Court ought to have directed the plaintiff to file substantive suit and it could not have entertained the impugned application which sought to be filed under the aforesaid provisions of law.

5.2 The Trial Court has committed egregious error by directing the parties especially the defendant to maintain status quo as to the possession and nature of the suit property till the final disposal of the suit. The injunction application filed by the plaintiff under Order XXXIX is yet to be adjudicated by the Trial Court, but the observations made in the impugned order would indicate that essentially the Trial Court has decided the injunction application without adjudicating the injunction application filed below Exh.5.

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5.3 The Trial Court has completely lost the sight of the fact that the amendment application filed by the plaintiff under Order VI, Rule 17 of the CPC is still pending for adjudication wherein also, the plaintiff sought amendment qua relief of the status quo ante. Unless and until such application will be allowed by the Trial Court in favour of the plaintiff, in the parallel proceedings, i.e., impugned application, no relief could have been granted in favour of the plaintiff.

5.4 Section 6 of the Act of 1963 is complete Code in itself. Whenever any person is claimed to be dispossessed, he is having remedy to file the suit under Section 6 of the Act of 1963. The Trial Court requires to grant liberty to the parties to lead their evidence. After recording of the evidence, the Trial Court can pass appropriate order in that suit. Whereas, while passing the impugned order, neither such opportunity was granted to the defendants nor the procedure envisaged under Section 6 of the Act of 1963 was followed.

5.5 The Trial Court has failed to appreciate that the plaintiff has not proved on record that it was forcibly evicted by the defendant from the suit property. The email communication dated 03.12.2025 issued by the defendant to the plaintiff would indicate that there was smooth transition of the suit property from the plaintiff to the

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defendant, inasmuch as the aforesaid email communication was never replied by the plaintiff.

5.6 The Trial Court has also committed serious error in law by assuming that the plaintiff has strong prima facie case, balance of convenience, and irreparable loss in his favour. It is undisputed fact that the lease deed executed by the defendant in favour of the plaintiff came to an end on 02.12.2025, and thereafter the plaintiff has no legal right to retain the suit property. According to the defendant, on 23.03.2025, the plaintiff has forcibly taken possession of the suit premises from the defendant while terminating dealership of the defendant, but at that point of time also, the defendant made it clear that upon expiry of the lease on 02.12.2025, the plaintiff will have to vacate the suit premises, and the same was vacated by the plaintiff on 03.12.2025 in favour of the defendant.

5.7 The Trial Court has committed serious error in law by assuming that the plaintiff was in lawful possession after 02.12.2025 and entitled for mandatory interim relief, thereby ordered the status quo ante. After expiry of the lease period, the possession of the plaintiff cannot be lawful in any respect, that too in absence of any relief granted, including any protection by the Trial Court. While issuing the notice in the suit in question and by virtue of the impugned order, the plaintiff cannot be allowed to get

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license to continue in the suit property. Even, due to the impugned order, the defendant is precluded to exercise his right to lodge complaint against the plaintiff under the Gujarat Land Grabbing (Prohibition) Act, 2020, inasmuch as the possession of the plaintiff beyond the period of lease period is nothing but an illegal possession.

5.8 The Trial Court ought not to have granted any relief while remedy was available to the plaintiff either filing independent suit or sough a mandatory injunction in its injunction application filed below Exhibit-5. The plaintiff has neither filed the suit under Section 6 of the Act of 1963, nor prayed for a mandatory injunction in the injunction application already filed below Exhibit 5, as the same is yet to be amended. It is settled position of law that when there is an express provision available under the CPC, the Trial Court should not exercise its inherent power under Section 151 of the CPC. The service of summons/notice of suit received by the defendant was on 04.12.2025 and prior thereto, the possession of the suit property was already handed over by the plaintiff in favour of the defendant on 03.12.2025, thereby it cannot be viewed that the defendant in high-handed manner dispossessed the plaintiff during the pendency of the suit. The decisions pressed into service by the plaintiff before the Trial Court or to this Court are not applicable to the case at hand; rather, the plaintiff has failed to show strong prima facie case.

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5.9 As per the settled position of law and as per Rule 152 of the Petroleum Rules 2002 in absence of any existing lease in favour of the oil marketing company / dealer, no Petroleum Retain Outlet can continued by the plaintiff.

5.10 To buttress his arguments, Mr.Mitul Shelat, learned Senior Counsel has placed reliance on the following decisions.

> *(1)* ***U. Sudheera and others Vs C.Yashoda and others****, reported in* ***(2025) 4 SCC 215*** *(para 18).*
>
> *(2)* ***Choorapilan Jameela and another Vs Padavanna Shamseer and others****, reported in* ***2026 : KR : 1428.***

5.11 Making the above submissions, Mr.Mitul Shelat, learned Senior Counsel has requested this Court to allow the present petition.

SUBMISSION OF RESPONDENT NO.1 – PLAINTIFF:

6. Mr.Rashesh Sanjanwala, learned Senior Counsel assisted by Mr.Kashyap Joshi, learned advocate for the respondent No.1 – plaintiff, has vehemently opposed this petition by making the following submissions.

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6.1 The Trial Court has not committed any error of law and, as such, no interference of this Court is required under Article 227 of the Constitution of India. It is a settled position of law that unless the impugned order suffers from patent error of law, perverse, and/or passed contrary to the settled principles of law, this Court should not exercise its power under Article 227 of the Constitution of India merely because the second view is possible.

6.2 The Trial Court has categorically recorded its subjective satisfaction that the defendant has unilaterally obtained possession of the suit premises from the plaintiff, that too during the pendency of the suit and accordingly, ordered *status quo ante*. The Trial Court has correctly observed that the defendant cannot assume that upon expiry of the lease period, they are entitled to take possession unilaterally without recourse to law.

6.3 The plaintiff has successfully proved on record that there was forcible dispossession of the plaintiff by the defendant on 03.12.2025. The plaintiff, having apprehended such illegal act on the part of the defendant, also requested the police on 02.12.2025 to provide necessary protection, but the same was not provided, which ultimately resulted into dispossession of the plaintiff during the pendency of the suit.

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6.4 The defendants, having declared their intention not to renew the lease despite renewal clause available in the lease deed executed between the parties, the plaintiff has constrained to file the suit seeking specific performance of the agreement on 24.11.2025, but before *bi-partite* hearing of the injunction application takes place, the defendant forcibly dispossessed the plaintiff from the suit premises on 03.12.2025.

6.5 The Trial Court has correctly exercised its power under Section 151 of the CPC by directing the defendants to restore the possession of the suit property to the plaintiff. The plaintiff is the oil marketing company running a Petrol pump – Retail Outlet and its highly inflammable stocks lying in the suit property which are an essential commodity, but due to illegal and highhanded action of the defendant, the plaintiff had no chance to even secure the essential commodities lying in the suit premises.

6.6 It is well settled position of law that nomenclature of the application and quoting wrong provisions of law would not disentitle the plaintiff to seek relief which is otherwise available to him under the law. The Trial Court was not powerless to grant mandatory interim relief by issuing order of *status quo ante* while exercising its power under Section 151 of the CPC. Even under Order XXXIX of CPC for any reason, if the Trial Court may not grant interim

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injunction in favour of the plaintiff, still it can grant interim relief in favour of the parties by exercising its inherent powers under Section 151 of the CPC. Once the plaintiff is before the Trial Court having filed the suit on 24.11.2025 and dispossessed from the suit property on 03.12.2025 without due process of law, the plaintiff was not required to institute substantive suit under Section 6 of the Act of 1963. To avoid multiplicity of the proceedings, the plaintiff has requested the Trial Court to exercise its inherent power under Section 151 of the CPC to restore back its possession and the same was correctly granted by the Trial Court.

6.7 The defendant failed to prima facie show that alleged handing over of the suit property by the plaintiff to the defendant on 03.12.2025 was a voluntary act on the part of the plaintiff; rather, ample documentary evidence on record to show that the plaintiff never intended to hand over possession of the suit property to the defendant upon expiry of the lease. The intention of the plaintiff to retain possession of the suit property and for which it has requested the defendant to renew the lease, but the same was denied. Furthermore, the defendants have instituted Commercial Suit No.12 of 2025 against the plaintiff before the Commercial Court, Jetpur seeking various reliefs. One of the reliefs prayed in the aforesaid suit in regard to get back peaceful and vacant possession of the suit property from the plaintiff. However, the defendant also sought

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declaration that condition No.3(viii) of the lease agreement is not binding to the defendant. This itself shows that the defendant forcibly evicted the plaintiff from the suit property on 03.12.2025 and due to such illegal act, the plaintiff had to approach the Trial Court by way of the impugned application filed in its suit on 11.12.2025.

6.8 The amendment application filed by the plaintiff under Order VI, Rule 17 of the CPC would not preclude the Trial Court from granting the relief as prayed for in the impugned application, inasmuch as by way of amendment application, the plaintiff sought to amend the prayer clause in the suit as well as in its injunction application.

6.9 The Trial Court has correctly exercised its inherent power and having found that the case is made out by the plaintiff who is dispossessed during the pendency of the suit, taking note of various decisions cited before it, the Trial Court *vide* its impugned order has correctly allowed the impugned application.

6.10 Mr.Sanjanwala, learned Senior Counsel would candidly submit that if this Court comes to the conclusion that the order of *status quo ante* whereby the defendants are directed to restore possession of the suit property to the plaintiff to continue till the final adjudication of the injunction application filed by the plaintiff which is pending so far and the direction issued by the Trial Court to the

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parties to maintain status quo as to nature of the suit property till the final disposal of the suit requires any modification, appropriate order may be passed in the interest of justice. Nonetheless, the possession of the suit property is required to be restored back to its original position which was prevailing at the time of institution of the suit i.e. 24.11.2025.

6.11 To buttress his arguments, Mr.Sanjanwala, learned Senior Counsel has relied upon the following judgments.

> *(1)* ***Manohar Lal Chopra Vs Rai Bahadur Rao Raja Seth Hiralal,*** *reported in* ***AIR 1962 SC 527*** *(Paras 15 and 17).*
>
> *(2)* ***Dorab Cawasji Warden Vs Coomi Sorab Warden and others,*** *reported in* ***(1990) 2 SCC 117*** *(Paras 16 and 17).*
>
> *(3)* ***Samir Narain Bhojwani Vs Aurora Properties and Investments and another,*** *reported in* ***(2018) 17 SCC 203*** *(Paras 24 and 26).*

6.12 Making the above submissions, Mr.Sanjanwala, learned Senior Counsel has requested this Court to dismiss the present petition.

7. No other and further submissions being made by the learned Senior Counsels appearing for the respective parties.

ANALYSIS & REASONS:

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8. The facts, which are observed at the outset, are not much in dispute except the factum of dispossession of the plaintiff by the defendants, i.e., was it voluntarily or unilaterally without due process of law? It is undisputed fact that the plaintiff and defendants have executed the lease deed in relation to the suit property on 02.12.2005 for a period of 20 years, which came to an end on 02.12.2025. The plaintiff being the oil marketing company and the defendant being the owner of the suit property have further entered into dealership agreement, whereby the defendant was appointed as dealer of the plaintiff to sell petroleum product by using the suit property (Retail Outlet). For any reason, the dealership came to be cancelled by the plaintiff *vide* its letter dated 20.03.2025. The aforesaid letter is produced on record of this petition at page 384 (Annexure R-1), by the plaintiff along with its affidavit in reply. A bare reading of the aforesaid letter and endorsement made by the defendant on the said letter would indicate that in the month of March 2025, the defendant handed over possession of the Retail Outlet (RO) – Petrol pump to the plaintiff. The defendant has also made an endorsement in said letter that after expiry of the lease period on 02.12.2025, RO - Retail Outlet shall be vacated by the plaintiff. The record indicates that subsequent to the aforesaid termination of the dealership agreement, the plaintiff *vide* its letters dated 01.08.2025 and 06.11.2025

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requested the defendants to renew the lease which was expiring on 02.12.2025. However, *vide* reply letter dated 19.8.2025 and email communication dated 14.11.2025, the defendant did not accept the request of the plaintiff to renew the lease beyond 02.12.2025. In fact, the defendant filed Commercial Suit No.12 of 2025 against the plaintiff before the Commercial Court, Jetpur, wherein sought various reliefs including the relief to get back peaceful and vacant possession of the suit premises from the plaintiff and also sought a declaration qua condition No.3 (viii) that it's not binding to the defendant. As per condition No.3(viii), the plaintiff (lessee), before expiration of the term of the lease, by written notice can call upon the defendant (lessor) for renewal of the lease. The lessor shall grant to the lessee a renewed lease of the demised premises. I would not like to express my opinion as regard to rights of the parties either to get renewal or refusal of the lease. This aspect can be examined by the concerned Court at the appropriate stage of proceedings of the suit.

9. Yet, this Court cannot oblivious of the fact that the plaintiff was in possession of the suit property by virtue of the lease deed and until 02.12.2025, the defendant has no right to dispossess the plaintiff from the suit property without following due process of law. The plaintiff sought specific performance of the aforesaid condition of the lease deed by filing the suit in question on 24.11.2025,

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wherein the summons / notice came to be issued upon the defendants on 24.11.2025 itself. The plaintiff was apprehending misdeed by the defendants; then, as an abundant caution, it has requested the police on 02.12.2025 to grant it police protection against the forcible dispossession by the defendants. It appears from a bare reading of the impugned application as well as email communication dated 03.12.2025 issued by the defendants to the plaintiff, the possession of the suit property was taken over from the plaintiff by the defendants on 03.12.2025. Undisputedly, there was no interim order passed by the Commercial Court in the suit filed by the defendants in their favour to get possession of the suit property from the plaintiff, nor was any letter/email issued by the plaintiff while handing over possession in favour of the defendants on 03.12.2025. The facts germane to the matter would clearly indicate that the defendant unilaterally took possession of the suit property from the plaintiff on 03.12.2025.

10. On the aforesaid background of facts, the plaintiff has requested the Trial Court vide its impugned application filed under Section 6 of the Act of 1963 read with Section 151 of the CPC to direct the defendants to restore possession of the suit property in favor of the plaintiff. The Trial Court has examined the issue in detail and by assigning its reasons allowed the impugned application vide

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its impugned order. The relevant observations made by the Trial Court in its impugned order requires to be reproduced as follows.

> *"7. The material placed on record, including the communication dated 03.12.2025 referring to taking over possession, prima facie indicates and satisfies this Court that possession of the suit property was taken over by the defendants on or about 02.12.2025. The defendants have not produced any decree, warrant of possession, or order of any competent court authorising such recovery.*
>
> *8. Even assuming that the lease expired by efflux of time, recovery of possession must be in accordance with law. Expiry of lease does not authorise unilateral resumption of possession without recourse to lawful procedure. No such lawful procedure is shown on record. No material is placed before this Court to indicate that possession was obtained through any process recognised by law. Self-help is not recognised as a permissible mode of recovery of possession under law.*
>
> *9. The principles relied upon by the learned advocate for the plaintiff lay down that settled possession cannot be disturbed except by due process of law and that unilateral alteration of possession during pendency of litigation cannot be permitted. The learned advocate for the defendants, by filing Exh.21, has sought to distinguish the authorities relied upon by the plaintiff on the ground that the lease had expired by efflux of time and that the plaintiff had no subsisting right after such expiry. However, the distinction so sought to be drawn pertains to the ultimate contractual rights of the parties, which are matters to be adjudicated at Trial. The present application is confined to the limited question whether possession was taken during pendency of the proceedings otherwise than by due process of law. Even assuming expiry of the lease, recovery of possession must be through a procedure recognised by law. Therefore, the submissions advanced in Exh.21 do not justify dispossession otherwise than in accordance with law.*

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10. This Court is prima facie satisfied that:

(i) the plaintiff was in continuous, peaceful and admitted possession since execution of the lease and thus in settled possession,

(ii) possession was taken during pendency of proceedings, and

(iii) such taking over is not shown to be pursuant to any lawful process.

11. If restoration is not granted, the subject matter of the suit would stand altered and the proceedings may be rendered infructuous. The injury caused by dispossession during pendency cannot be adequately compensated in monetary terms. The balance of convenience therefore lies in restoring the position existing immediately prior to such dispossession. This is a fit case for grant of mandatory interim relief act the dispossession during pendency interferes with the administration of justice and warrants immediate restitution.

12. The present direction is issued to restore status quo ante to prevent frustration of judicial proceedings and in exercise of powers under Section 151 of the Code of Civil Procedure, as no specific provision governs restoration of possession during pendency in the present factual matrix. This order does not determine the validity or enforceability of the renewal clause and does not create or recognise any fresh tenancy in favour of the plaintiff. The defendants are at liberty to recover possession strictly in accordance with law. In view of the foregoing discussion, I pass the following order."

10.1 Accordingly, Trial Court passed the following order.

"1. The present application below Exh.7 is hereby allowed.

2. The defendants are directed to restore possession of the suit property to the plaintiff within 15 days from the date of this order.

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3. Upon restoration, both parties shall maintain status quo as to possession and nature of the suit property as restored pursuant to this order till final disposal of the suit.

4. Observations made herein shall not affect adjudication of the suit on merits."

10.2 The Trial Court has exercised its powers under Section 151 of the CPC and having found that the plaintiff was dispossessed during pendency of the suit, order of *status quo ante* passed, thereby directed the defendants to restore possession of the suit property to the plaintiff.

11. The principal grievance raised by the defendant that since the impugned application was filed under section 6 of the Act of 1963, it was not maintainable and the plaintiff ought to have been relegated to file a suit under section 6 of the Act of 1963 and having not done so by the Trial Court, it has committed serious error in law by allowing the impugned application. The principal objection of the defendant is untenable in law, for the simple reason that in the impugned application apart from referring Section 6 of the Act of 1963, the plaintiff also referred Section 151 of the CPC, thereby prayed to the Trial Court to exercise its inherent power. There is no cavil that mere wrong mention of any provisions of law in the application, the Court should not reject the application for that reason if otherwise it has power to entertain and grant any relief in the application. According to my considered view, no error is committed by the Trial Court while entertaining the

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impugned application by treating it as filed under Section 151 of the CPC.

12. So far as another limb of the argument on the part of the defendant that since the amendment application is pending for adjudication wherein the plaintiff sought amendment of prayer in the suit as well as the injunction application, whereby the plaintiff sought to incorporate very relief as prayed in the impugned application is concerned, the impugned application was filed by the plaintiff seeking immediate relief as it was dispossessed by the defendant during pendency of the suit without following due process of law. Whereas the amendment sought for may be considered by the Trial Court during the course of the suit and if ultimately the plaintiff succeeds in the suit, it can be granted appropriate reliefs as prayed in the suit. But, for such a reason, the Trial Court was not precluded and at least not powerless to grant order of *status quo ante,* when it found that the plaintiff was dispossessed by the defendants during pendency of the suit, that too without following due process of law.

13. As far as the grievance of the defendant that upon expiry of the lease period the plaintiff has no right to retain the suit property is concerned, again there is fallacy on the part of the defendant to contend that upon expiry of the lease period, without following due process of law, they

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could have obtained possession of the suit property from the plaintiff, which in fact done by them. The plaintiff has already sought performance of the lease deed, i.e., Condition No.3(viii), by way of the suit in question, whereas the defendants have also instituted the Commercial Suit against the plaintiff wherein sought relief of possession from the plaintiff. In such circumstances, the defendants could not have acted unilaterally and unauthorizedly took possession of the suit premises from the plaintiff who was running Retail Outlet - Petrol pump at the suit premises. One cannot dispute the fact that in running petrol pump, there would be highly inflammable essential commodities like petrol, diesel etc. stored in the tank and abrupt dispossession of the plaintiff from its Retail Outlet would cause damage to the property and risk to the public as well.

13.1 At this juncture, I would like to refer the decision of the Honourable Supreme Court in the case of ***Manohar Lal Chopra*** (supra) wherein it has been held that the Civil Court has inherent powers under Section 151 of CPC to grant interim injunction even if for any reason it cannot be granted while exercising its powers under Section 94 read with Order XXXIX of the CPC. The relevant observations made by the Honourable Supreme Court in the aforesaid decision read thus:

> *"18. There is difference of opinion between the High Courts on this point. One view is that a Court cannot issue an order*

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of temporary injunction if the circumstances do not fall within the provisions of Order XXXIX of the Code : Varadacharlu v. Nar-simha Charlu, AIR 1926 Mad 258; Govinda-rajulu v. Imperial Bank of India, AIR 1932 Mad 180; Karuppayya v. Ponnuswami, AIR 1933 Mad 500 (2); Murugesa Mudali Angamuthu Mudali, AIR 1938 Mad 190 and Subramanian v. Seetarama, AIR 1949 Mad 104. The other view is that a Court can issue an interim injunction under circumstances which are not covered by Order XXXIX of the Code, if the Court is of opinion that the interests of justice require the issue of such interin injunction: Dhaneshwar Nath v. Ghanshyam Dhar, AIR 1940 All 185; Firm Bichchha Ram v. Firm Baldeo Sahai Surajmal, AIR 1940 All 241; Bhagat Singh v. Jagbir Sawhney, AIR 1941 Cal 670 and Chinese Tannery Owners' Association v. Makhan Lal, AIR 1952 Cal 560. ***We are of opinion that the latter view is correct and that the Courts have inherent jurisdiction to issue temporary injunctions in circumstances which are not covered by the provisions of O.XXXIX, Code of Civil Procedure. There is no such expression in S.94 which expressly prohibits the issue of a temporary injunction in circumstances not covered by O. XXXIX or by any rules made under the Code. It is well settled that the provisions of the Code are not exhaustive for the simple reason that the Legislature is incapable of contemplating all the possible circumstances which may arise in future litigation and consequently for providing the procedure for them****. The effect of the expression 'if it is so prescribed' is only this that when the rules prescribe the circumstances in which the temporary injunction can be issued, ordinarily the Court is not to use its inherent powers to make the necessary orders in the interests of justice, but is merely to see whether the circumstances of the case bring it within the prescribed rule****. If the provisions of S.94 were not there in the Code, the Court could still issue temporary injunctions, but it could do that in the exercise of its inherent jurisdiction.*** *No party has a right to insist on the Court's exercising that jurisdiction and the Court exercises its inherent jurisdiction only when it considers it absolutely necessary for the ends of justice to do so. It is in the incidence of the exercise of the power of the Court to issue temporary injunction that the provisions of S.94 of the Code have their effect and not in taking away the right of the Court to exercise its inherent powers.*

19. There is nothing in O. XXXIX, rules 1 and 2, which provide specifically that a temporary injunction is not to be issued in cases which are not mentioned in those rules. The

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rules only provide that in circumstances mentioned in them the Court may grant a temporary injunction.

20. Further, the provisions of S.151 of the Code make it clear that the inherent powers are not controlled by the provisions of the Code. Section 151 reads:

> *"Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of the justice or to prevent abuse of the process of the Court."*

21. A similar question about the powers of the Court to issue a commission in the exercise of its powers under S.151 of the Code in circumstances not covered by S.75 and Order XXVI, arose in Padam Sen v. The State of Uttar Pradesh, 1961-1 SCR 884 : (AIR 1961 SC 218), and this Court held that the Court can issue a commission in such circumstances. It observed at page 887 (of SCR) : (at p.219 of AIR) thus:

> *"The inherent powers of the Court are in addition to the powers specifically conferred on the Court by the Code. They are complementary to those powers and therefore it must be held that the Court is free to exercise them for the purpose mentioned in S.151 of the Code when the exercise of those powers is not in any way in conflict with what has been expressly provided in the Code or against the intentions of the Legislature."*

These observations clearly mean that ***the inherent powers are not in any way controlled by the provisions of the Code as has been specifically stated in S.151 itself. But those powers are not to be exercised when their exercise may be in conflict with what had been expressly provided in the Code or against the intentions of the Legislature.*** *This restriction, for practical purposes, on the exercise of those powers is not because those powers are controlled by the provisions of the Code but because it should be presumed that the procedure specifically provided by the Legislature for orders in certain circumstances is dictated by the interests of justice."*

(Emphasis supplied)

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13.2 Even as per the decision of the Hon'ble Supreme Court in the case of ***U. Sudheera*** (supra) cited by Mr. Mitul Shelat, learned Senior Counsel, also referred the aforesaid decision of ***Manohar Lal Chopra*** (supra).

13.3 At this stage, it is also profitable to refer to the decision of the Hon'ble Supreme Court in the case of ***K.K. Velusamy Vs. N. Palanisamy*** reported in ***(2011) 11 SCC 275*** summarized the scope of section 151, which read as follows:

> ***"[10]*** *The respondent contended that section 151 cannot be used for re- opening evidence or for recalling witnesses. We are not able to accept the said submission as an absolute proposition. We however agree that section 151 of the Code cannot be routinely invoked for reopening evidence or recalling witnesses. The scope of section 151 has been explained by this Court in several decisions (See : Padam Sen vs. State of UP, 1961 AIR(SC) 218; Manoharlal Chopra vs. Seth Hiralal, 1962 AIR(SC) 527; Arjun Singh vs. Mohindra Kumar, 1964 AIR(SC) 993; Ram Chand and Sons Sugar Mills (P) Ltd. vs. Kanhay Lal, 1966 AIR(SC) 1899; Nain Singh vs. Koonwarjee, 1970 1 SCC 732; The Newabganj Sugar Mills Co.Ltd. vs. Union of India, 1976 AIR(SC) 1152; Jaipur Mineral Development Syndicate vs. Commissioner of Income Tax, New Delhi, 1977 AIR(SC) 1348; National Institute of Mental Health & Neuro Sciences vs. C Parameshwara, 2005 2 SCC 256; and Vinod Seth vs. Devinder Bajaj, 2010 8 SCC 1). We may summarize them as follows:*
>
> *(a)* ***Section 151 is not a substantive provision which creates or confers any power or jurisdiction on courts. It merely recognizes the discretionary power inherent in every court as a necessary corollary for rendering justice in accordance with law, to do what is 'right' and undo what is 'wrong', that is, to do all things necessary to secure the ends of justice and prevent abuse of its process****.*
>
> *(b) As the provisions of the Code are not exhaustive, section 151 recognizes and confirms that if the Code does not expressly*

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or impliedly cover any particular procedural aspect, the inherent power can be used to deal with such situation or aspect, if the ends of justice warrant it. The breadth of such power is co-extensive with the need to exercise such power on the facts and circumstances.

(c) A Court has no power to do that which is prohibited by law or the Code, by purported exercise of its inherent powers. If the Code contains provisions dealing with a particular topic or aspect, and such provisions either expressly or necessary implication exhaust the scope of the power of the court or the jurisdiction that may be exercised in relation to that matter, the inherent power cannot be invoked in order to cut across the powers conferred by the Code or a manner inconsistent with such provisions. ***In other words the court cannot make use of the special provisions of Section 151 of the Code, where the remedy or procedure is provided in the Code****.*

(d) ***The inherent powers of the court being complementary to the powers specifically conferred, a court is free to exercise them for the purposes mentioned in Section 151 of the Code when the matter is not covered by any specific provision in the Code and the exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the Legislature.***

(e) While exercising the inherent power, the court will be doubly cautious, as there is no legislative guidance to deal with the procedural situation and the exercise of power depends upon the discretion and wisdom of the court, and the facts and circumstances of the case. The absence of an express provision in the code and the recognition and saving of the inherent power of a court, should not however be treated as a carte blanche to grant any relief.

(f) The power under section 151 will have to be used with circumspection and care, only where it is absolutely necessary, when there is no provision in the Code governing the matter, when the bona fides of the applicant cannot be doubted, when such exercise is to meet the ends of justice and to prevent abuse of process of court."

(Emphasis supplied)

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13.4 Thus, in view of the exposition of law, the power under Section 151 of the CPC is available with the Trial court, which can be exercised to do what is right and undo what is wrong, i.e., to do all things necessary to secure the ends of justice and prevent abuse of its process. The only caution that such power cannot be exercised in an area where Code itself prohibits the Court to do certain things or there is an express remedy or provision provided in the Code. At least during the course of submission, no such provision of the Code is brought to my notice by Mr. Mitul Shelat, learned Senior Counsel. According to my considered view, by granting mandatory interim relief in favor of the plaintiff in exercise of its power vested under Section 151 CPC, the Trial Court has neither acted beyond its power nor breached any provisions of the Code; rather, it has correctly exercised such power to undo wrong which has been done by the defendant. It is not desirable to advice the plaintiff to file suit under section 6 of the Act, 1963, as it is nothing but to multiply the proceeding between the parties. No Court should encourage the party to multiply the proceeding especially when it has power to grant relief.

14. At this juncture, it is profitable to refer to the decision of Hon'ble Supreme Court in the case of ***Krishna Ram Mahale v. Shobha Venkat Rao***, ***(1989) 4 SCC 131***, wherein it observed thus:

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"8. Mr Tarkunde, learned counsel for Defendant 3, the appellant herein, rightly did not go into the appreciation of the evidence either by the Trial court or the High Court or the factual conclusions drawn by them. It was, however, strongly urged by him that the period of licence had expired long back and the plaintiff was not entitled to the renewal of licence. It was submitted by him that in view of the licence having come to an end, the plaintiff had no right to remain in charge of the business or the premises where it was conducted and all that the plaintiff could ask for was damages for unlawful dispossession even on the footing of facts as found by the High Court. We find ourselves totally unable to accept the submission of Mr Tarkunde. ***It is a well-settled law in this country that where a person is in settled possession of property, even on the assumption that he had no right to remain on the property, he cannot be dispossessed by the owner of the property except by recourse to law****. If any authority were needed for that proposition, we could refer to the decision of a Division Bench of this Court in Lallu Yeshwant Singh v. Rao Jagdish Singh [AIR 1968 SC 620 : (1968) 2 SCR 203,208-210] .* ***This Court in that judgment cited with approval the well-known passage from the leading Privy Council case of Midnapur Zamindary Co. Ltd. v. Naresh Narayan Roy [AIR 1924 PC 144 : 51 IA 293, 299 : 23 ALJ 76]*** *where it has been observed (p. 208):*

> ***"In India persons are not permitted to take forcible possession; they must obtain such possession as they are entitled to through a court."***

9. The proposition was also accepted by a Division Bench of this Court in Ram Rattan v. State of U.P. [(1977) 1 SCC 188: 1977 SCC (Cri) 85: (1977) 2 SCR 232]. ***The Division Bench comprising of three learned Judges held that a true owner has every right to dispossess or throw out a trespasser while he is in the act or process of trespassing but this right is not available to the true owner if the trespasser has been successful in accomplishing his possession to the knowledge of the true owner. In such circumstances, the law requires that the true owner should dispossess the trespasser by taking recourse to the remedies***

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> ***under the law***. ***In the present case, we may point out that there was no question of the plaintiff entering upon the premises as a tresspasser at all, as she had entered into the possession of the restaurant business and the premises where it was conducted as a licensee and in due course of law***. *Thus, Defendant 3 was not entitled to dispossess the plaintiff unlawfully and behind her back as has been done by him in the present case. It was pointed out by Mr Tarkunde that some of the observations referred to above were in connection with a suit filed under Section 6 of the Specific Relief Act, 1963 or analogous provisions in the earlier Specific Relief Act, 1877. To our mind, this makes no difference in this case as the suit has been filed only a few weeks of the plaintiff being unlawfully deprived of possession of the said business and the premises and much before the period of six months expired. In view of the aforesaid conclusions arrived at by us, we do not propose to consider the question whether the agreement between the plaintiff and Defendant 3 amounted to a licence or a sub-lease."*
>
> (Emphasis supplied)

14.1 It is true that the said decision of the Hon'ble Apex Court arose out of the final outcome of a suit, which might have been filed under Section 6 of the Act 1963, or the Specific Relief Act, 1877, as the case may be. Nevertheless, the fact remains that, in somewhat similar situation to the case at hand, the aforesaid proposition of law laid down. Thus, it is well settled that no person in India is permitted to take forcible possession. A person seeking possession is required to obtain it only through due process of law, i.e., by approaching Court of law.

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15. In view of the settled position of law, considering the aforesaid facts, the defendant cannot be allowed to treat the plaintiff as trespasser from 03.12.2025 and throw the plaintiff out of the suit property and surreptitiously obtained possession of suit property without following due process of law. The defendants by no stretch of the imagination are entitled to get back possession of suit property from the plaintiff without following due process of law. Having done so, the defendant acted contrary to settle law and, in such circumstances, the Trial Court was well within its power to grant relief in favour of the plaintiff.

16. It is true that while granting any mandatory relief and/or injunction, as the case may be, whereby the Court is passing the order of *status quo ante*, it requires to take note of the well-settled principles of law into account. While granting such relief, the plaintiff shall have to make out a strong prima facie case, irreparable injury, and balance of convenience in his favour. It would be apt to refer to the decision of the Full Bench in the case of ***Samir Narain Bhojwani*** (supra), wherein it propounded as follows:

> *"24. That apart, the learned Single Judge as well as the Division Bench have committed fundamental error in applying the principle of moulding of relief which could at best be resorted to at the time of consideration of final relief in the main suit and not at an interlocutory stage. The nature of order passed against the appellant is undeniably a mandatory order at an interlocutory stage. There is marked distinction between moulding of relief and granting*

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mandatory relief at an interlocutory stage. As regards the latter, that can be granted only to restore the status quo and not to establish a new set of things differing from the state which existed at the date when the suit was instituted. This Court in ***Dorab Cawasji Warden v. Coomi Sorab Warden****, has had occasion to consider the circumstances warranting grant of interlocutory mandatory injunction. In paras 16 & 17, after analysing the legal precedents on the point as noticed in paras 11-15, the Court went on to observe as follows: (SCC pp. 126-27)*

> *"16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. But since the granting of such an injunction to a party who fails or would fail to establish his right at the Trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines. Generally stated these guidelines are:*
>
> *(1) The plaintiff has a strong case for Trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.*
>
> *(2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.*
>
> *(3) The balance of convenience is in favour of the one seeking such b relief.*
>
> *17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor*

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> *complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion."*

25. The Court, amongst others, rested its exposition on the dictum in Halsbury's Laws of England, 4th Edn., Vol. 24, Para 948, which reads thus:

> *"948. Mandatory injunctions on interlocutory applications. A mandatory injunction can be granted on an interlocutory application as well as at the hearing, but, in the absence of special circumstances, it will not normally be granted. However, if the case is clear and one which the court thinks ought to be decided at once, or if the act done is a simple and summary one which can be easily remedied, or if the defendant attempts to steal a march on the plaintiff, such as where, on receipt of notice that an injunction is about to be applied for, the defendant hurries on the work in respect of which complaint is made so that when he receives notice of an interim injunction it is completed, a mandatory injunction will be granted on an interlocutory application."*

26. The principle expounded in this decision has been consistently followed by this Court. ***It is well established that an interim mandatory injunction is not a remedy that is easily granted. It is an order that is passed only in circumstances which are clear and the prima facie material clearly justify a finding that the status quo has been altered by one of the parties to the litigation and the interests of justice demanded that the status quo ante be restored by way of g an interim mandatory injunction****. [See Metro Marins v. Bonus Watch Co. (P) Ltd. 12, Kishore Kumar Khaitan v. Praveen Kumar Singh13 and Purshottam Vishandas Raheja v. Shrichand Vishandas Raheja.]"*

(Emphasis supplied)

16.1 It is also profitable to refer to another decision of Hon'ble Supreme Court in the case of ***Kishore Kumar***

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Khaitan v. Praveen Kumar Singh, reported in **(2006) 3 SCC 312** wherein held thus:

> ***"6. An interim mandatory injunction is not a remedy that is easily granted. It is an order that is passed only in circumstances which are clear and the prima facie materials clearly justify a finding that the status quo has been altered by one of the parties to the litigation and the interests of justice demanded that the status quo ante be restored by way of an interim mandatory injunction****. Keeping this principle in mind, it is necessary to see whether in the case on hand, the Additional District Judge was justified in passing the interim order of injunction."*
>
> (Emphasis supplied)

17. It was strenuously argued by Mr. Mitul Shelat, learned Senior Counsel, that the parties to the suit ought to have been granted liberty to lead evidence by the Trial Court to prove whether dispossession of the plaintiff was a unilateral or voluntary act of the plaintiff, whereby it has handed over the possession in favour of the defendants. According to my considered view, taking note of the aforesaid facts and events that took place prior to the dispossession of the plaintiff, prima facie, it is evident that, at the very least, the plaintiff never intended to part with the possession of the suit property to the defendant; otherwise, the plaintiff would not have instituted the suit seeking specific performance and protection of its possession. Indisputably, on 03.12.2025, the plaintiff was ousted from the suit property by the defendant. Thus, in view of overwhelming facts on record, would lead to only one

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conclusion that the defendant has forcibly taken the possession of suit property from the plaintiff without following due process of law.

18. Taking note of the aforesaid proposition of law laid down by the Hon'ble Supreme Court, if applied to the facts of the present case, it cannot be gainsaid that the plaintiff was in possession of the suit property, being lessee, at the time of institution of the suit on 24.11.2025 and unilaterally dispossessed by the defendant on 03.12.2025, i.e., without following due process of law. In such circumstances, the order of *status quo ante* required to be granted in favour of the plaintiff; otherwise, the defendants, without following due process of law, are allowed to retain the possession of the suit property. In my view, if the aforesaid act of the defendant is not corrected at this stage, the Court would fail in its duty to secure the ends of justice and would permit an illegality to be perpetuated, which no Court should allow.

19. In view of the foregoing discussions and reasons, I am of the considered view that the power exercised by the Trial Court was neither contrary to settled law nor any patent error of law committed by the Trial Court while exercising its powers under Section 151 of the CPC, whereby directed the defendants to restore possession of the suit property to the plaintiff and further directed the parties

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to maintain status quo as to the possession. To that extent, no fault can be found with the impugned order.

20. Nonetheless, the Trial Court appears to have further directed the parties to maintain status quo qua the possession and the nature of the suit property as restored as per the impugned order till the final disposal of the suit. Such directions would go beyond the scope and ambit of the impugned application as well as prayer made by the plaintiff in the impugned application, i.e., *status quo ante*. Thus, *status quo* of the suit property and its nature after restoring the possession to the plaintiff until the final disposal of the suit ought not to have been granted by the Trial Court, especially when the injunction application filed by the plaintiff is pending for adjudication.

CONCLUSION:

21. In view of aforesaid, even by not disturbing the order of status quo ante granted by the Trial Court *vide* its impugned order and further direction that the defendants shall not disturb the possession of the plaintiff in respect of the suit property after status quo ante, rest of the reliefs as granted by the Trial Court *vide* its impugned order are required to be modified by this Court.

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21.1 Accordingly, it has been held that the defendant Nos. 1 to 7 are directed to restore possession of the suit property to the plaintiff forthwith. Upon restoration, both the parties shall maintain status quo as to possession until the final adjudication of the injunction application filed by the plaintiff under Order XXXIX of the CPC.

21.2 It is made clear that any observations made by this Court hereinabove would not come in the way of any of the parties either at the time of adjudication of the interim injunction application, any other application, or final adjudication of the suit, meaning thereby, the rights and contentions of the respective parties are hereby kept open to be decided by the Trial Court as per the evidence forthcoming on the record of the suit.

21.3 So far as the injunction application, the amendment application, etc., are concerned, the same shall be decided by the Trial Court in accordance with law and on its own merits.

22. In view of the foregoing conclusion, the present petition is partly allowed. The impugned order dated 18.03.2026 passed by learned Principal Senior Civil Judge, Jetpur below Exh.7 in Regular Civil Suit No.104 of 2025 is partly modified to the aforesaid extent. Rule is made absolute accordingly. No order as to costs.

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23. As a sequel, the Civil Application also stands disposed of.

(MAULIK J.SHELAT,J)

FURTHER ORDER

After pronouncement of the judgment, Mr. Mitul Shelat, learned Senior Counsel assisted by Ms. Noopur K. Dalal, learned Advocate for the petitioners, would request for the suspension of this order for a period of two weeks. This request is strongly objected by Mr.Rashesh Sanjanwala learned Senior Counsel for respondent No.1.

In view of the reasons assigned supra, request is refused.

(MAULIK J. SHELAT, J)

H.M. PATHAN

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