

**HIGH COURT OF GUJARAT****KAIRA DISTRICT COOPORATIVE MILK PRODUCERS UNION LTD***Versus***FEDERATION OF COOPERATIVE STORES LTD****Date of Decision:** 13 February 2008**Citation:** 2008 LawSuit(Guj) 422**Hon'ble Judges:** [Akil Kureshi](#)**Case Type:** Special Civil Application**Case No:** 12138 of 2007**Final Decision:** Petition disposed**Advocates:** [Nanavati Associates](#), [H M Parikh](#)

**[1]** The petitioner original-plaintiff has approached this Court at a stage where the Trial Court has simply issued notice on Ex.5 application seeking injunction pending the civil suit filed by the petitioner. On 23.4.2007, in Summary Suit No.24/07, the Trial Court issued notice, but refused to grant ex parte ad interim injunction in favour of the petitioner. The petitioner, therefore, approached this Court and prayed that the respondent be prevented from disposing, alienating etc. the property which was offered as a security by the respondent to the petitioner.

**[2]** This Court on 4.5.07 issued rule and granted ad-interim relief in terms of para 15(B) of the petition. Para 15(B) of the petition reads as follows:-

?S(B) Pending admission, hearing and final disposal of this petition, this Hon'ble Court be pleased to restrain the respondent from selling, transferring by goodwill or otherwise, assigning or any in any manner creating third party rights with respect to the properties given by the respondent as security to the petitioner and which are more particularly described in paragraph 7 above, in the interest of justice.??

**[3]** Learned advocate Shri Parikh for the respondent, however, submitted that the petitioner has rushed before this Court at a stage where the Trial Court is yet to apply its mind on the issues arising even for consideration of interim injunction. He further submitted that the respondent has in clear terms stated that in the affidavit in reply that the respondent has no intention to dispose of any of the properties and the prayer

is based on mere apprehension. While disposing of this petition finally, the Trial Judge is requested to decide the Ex.5 application expeditiously after giving opportunity to both sides to place materials and arguments before the Court. Until such time the said application is decided, the respondent shall abide by its statement made in the affidavit in reply at para 4 which reads as follows:

?S4. I say that, before entering into the merits of the case, I make it very clear that the respondent society has not disposed of any of its properties nor the respondent society has any intention to dispose of any of its properties in the near future. The respondent has not even tried to dispose of any of its properties and hence the alleged apprehension on the part of the petitioner Union is without any foundation. I further state on oath before this Hon'ble Court that the respondent society would not transfer any of its properties which are alleged to have been given in security in favour of the petitioner Union, in any manner till disposal of application Ex.5 filed in Civil Suit No.24/2007 pending before the learned 6th Additional Senior Civil Court at Nadiad.??

**[4]** Ex.5 application shall be decided unmindful of any observations that might have been made in this order. With these directions, the petition is disposed of.