

IN THE COURT OF SENIOR CIVIL JUDGE-II, MALIR KARACHI
(BEFORE NAVEED AHMED SAHITO)

Civil Suit No: 5769/2025

CMA No: 15647/2024

M/s Marjan Readymade Garments Industries-----Plaintiff
Versus

SITE and another-----Defendants

Mr. Farjad Ali Khan/Muhammad Umar Farooq Mudassir, Advocate
for plaintiff

Miss. Uzma Yousuf, Advocate for defendant no: 2



ORDER
24-04-2025

1. By this order, I intend to dispose of an application under Order XXXIX Rules 1 & 2 read with Section 151 C.P.C., filed by the plaintiff, seeking interim injunctive relief against the defendants. The brief facts, as set out in the plaint and reiterated in the application, are that the plaintiff claims to be lawful owner/lessee of the suit property and alleges that the defendants have illegally encroached upon a portion thereof, reduced its actual width, and are attempting to raise unauthorized construction and create third-party interest. The plaintiff further relies upon correspondence exchanged with defendant No.1 (SITE authority), wherein shortage in measurement of the plot has been acknowledged to some extent.

2. Notices were issued to the defendants. Defendant No.2 has filed counter affidavit, contesting the application on the grounds, inter alia, that the same is not maintainable; that the plaintiff has no prima facie case; that the balance of convenience lies in favour of the defendants; and that the property in question was duly leased and registered with the competent authority. It is also contended that the suit is time-barred and that no encroachment has been made by the defendants.

3. Learned counsel for the plaintiff argued that as per the approved master plan, the width of the suit property is substantially reduced due to illegal encroachment by adjoining occupiers, and that such encroachment has also been partially acknowledged in the correspondence issued by defendant No.1. It is argued that despite repeated requests, no remedial action has been taken, and there is an imminent threat of further construction and creation of third-party interest, which would cause irreparable loss to the plaintiff.

4. Conversely, learned counsel for the defendant denied the allegations and argued that the defendants are in lawful possession of their own property and have not encroached upon any portion of the plaintiff's land. It is further argued that the plaintiff has approached

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this Court with delay and the suit is barred by time; hence, no equitable relief can be granted.

5. I have heard learned counsel for the parties and perused the material available on record. At this tentative stage, without touching upon the merits of the case, it is to be examined whether the plaintiff has made out a case for grant of temporary injunction in terms of well-settled principles, namely: (i) existence of a prima facie case, (ii) balance of convenience, and (iii) likelihood of irreparable loss.

6. From perusal of the record, it appears that the plaintiff has placed on record certain correspondence, including letters issued by defendant No.1, indicating shortage in the measurement of the suit plot. The contention regarding encroachment and reduction in width raises a triable question, which requires evidence for its final adjudication. At this stage, the material so far produced is sufficient to constitute a prima facie case in favour of the plaintiff.

7. As regards the balance of convenience, it is an admitted principle that where construction is allowed to continue during pendency of litigation, it may complicate the matter and create third-party rights, thereby rendering the final decree, if any, ineffective. Preservation of the property in its existing condition is, therefore, necessary to avoid multiplicity of proceedings.

8. The element of irreparable loss is also attracted, as any further encroachment, construction, or creation of third-party interest may cause injury to the plaintiff which cannot be adequately compensated in terms of money.

9. In this regard, reliance placed on the settled law laid down by the Honourable Supreme Court of Pakistan in *Mst. Hajra Bibi v. Abdul Rehman* (PLD 1984 SC 349), wherein it has been held that where a party establishes a prima facie case and likelihood of irreparable loss, interim injunction should be granted to maintain status quo. Similarly, in *Muhammad Ashraf v. Muhammad Yousaf* (2007 SCMR 1846), it has been observed that construction over disputed property during pendency of suit should be restrained to avoid complications.

10. In view of the above discussion, the instant application is **allowed** and the defendants, their agents, servants, or any person acting on their behalf are hereby restrained from raising any construction, making any further encroachment, or altering the physical status of the suit property in any manner whatsoever. The defendants are further restrained from creating any third-party interest or transferring any portion of the disputed property during pendency of

the suit till six months or till final disposal of the suit whichever come first.

11. It is clarified that the observations made herein are tentative in nature and shall not prejudice the case of either party at the time of final adjudication.

Announced in open court.

This the 24th day of April, 2026

24/4/26
(NAVEED AHMED SAHITO)
Senior Civil Judge-II
Malir Karachi