



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Miscellaneous Appeal No. 2028/2026

M/s Shyam And Shyam Oil Mills Private Limited, Ta Company Registered Under The Companies Act, Having Its Registered Office At 402 Ranbanka Royal, Circuit House, Jodhpur Through Its Director Sh. Shyam Sunder Chhugani, S/o Late Sh. Tejumal Chhugani, Aged About 61 Years, R/o B-43, Amardeep, Shastri Nagar, Jodhpur.



----Appellant

Versus

1. Gnet Impex Private Limited, Having Its Registered Office At R-724M Ttc Industrial Area, Midc Rabale, Navi Mumbai And Also At Gnet Impex Pvt. Ltd. 47-50, Gram Basni Baghela, Luni Road, Jodhpur. Through Its Director Sh. Sandeep Patawari.
2. Sandeep Patawari, Gnet Impex Private Limited, 109, Mahadev Nagar, Pal Road, Jodhpur.

----Respondents

For Appellant(s) : Mr. OP Mehta
Mr. P.P. Choudhary, Sr. Advocate
assisted by Mr. Falgun Buch
Mr. Zubin Ahmed
Mr. GK Chhangani
Mr. VD Gaur

For Respondent(s) : Mr. Rajesh Parihar

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable

29/06/2026

1. By way of filing the instant Civil Miscellaneous Appeal, the appellant has laid challenge to the order dated 29.05.2026 passed by the learned District Judge, Jodhpur Metropolitan, Jodhpur in Civil Case No.248/2026.
2. Heard learned counsel for the parties.



3. At the outset, this Court is of the view that any elaborate discussion on the factual or legal controversy at this interlocutory stage may inadvertently influence the learned trial Court while adjudicating the pending application for temporary injunction or may otherwise prejudice the case of either of the parties. Judicial discipline, therefore, demands that this Court should exercise restraint and refrain from entering into a detailed examination of the factual and legal aspects of the matter.

4. The appeal, in substance, assails an order refusing ad interim protection, whereas the substantive application for temporary injunction is still awaiting adjudication before the learned trial Court. The question as to whether the plaintiff has been able to establish a prima facie case, whether the balance of convenience tilts in its favour and whether refusal of injunction would occasion irreparable injury or loss incapable of adequate compensation, are the foundational considerations which the Court of first instance is statutorily required to examine. Since these vital issues are yet to receive a comprehensive consideration, this Court is of the firm view that the learned trial Court should first render its independent determination thereon. It is only thereafter, if occasion so arises, that the appellate Court may appropriately examine the correctness of such determination.

5. Though learned counsel for the respective parties have addressed elaborate submissions touching upon the merits of the controversy, this Court consciously desists from recording any opinion thereon lest the same may either influence the learned trial Court or create an impression prejudicial to the cause of either side.





6. Mr. Rajesh Parihar, learned counsel appearing for the respondent vehemently submitted that the material already available on record itself demonstrates the absence of a prima facie case in favour of the appellant and, therefore, the learned trial Court was fully justified in declining ad interim relief. This Court, however, refrains from expressing any opinion on the said submission for the reason that the very questions relating to the existence of a prima facie case, balance of convenience and irreparable injury are yet to be finally adjudicated by the learned trial Court after considering the pleadings, affidavits and material available on record. Judicial propriety warrants that such issues should first be examined by the Court of first instance.

7. This Court also considers it appropriate to observe that the very object underlying an ad interim injunction is to grant immediate and short-lived protection in exceptional circumstances until the application for temporary injunction can be finally heard. Once notice has been served upon the opposite party, pleadings have been completed, replies have been filed and affidavits and relevant material have come on record, the endeavour of the Court should ordinarily be to decide the application for temporary injunction itself rather than devoting considerable judicial time to an elaborate adjudication of the ad interim prayer.

7.1 Ordinarily, an application for temporary injunction deserves to be decided with utmost expedition and, as a rule of prudence, preferably within a period of about thirty days from the date it becomes ripe for consideration. An ad interim order is not intended to substitute or eclipse the adjudication of the substantive application under Order XXXIX CPC. If the





circumstances are such that an elaborate order running into several pages is required while considering the prayer for ad interim protection, the Court may well be in a position to finally decide the application for temporary injunction itself, which alone would advance the object of expeditious justice and avoid unnecessary multiplicity of interlocutory proceedings. The temporary injunction itself is intended to operate only during the pendency of the suit, whereas an ad interim order is of an even more transitory character, surviving only till the application for temporary injunction is finally decided. The distinction in their respective nature and purpose ought to be borne in mind while exercising the discretionary jurisdiction.

8. Consequently, without expressing any opinion on the merits of the controversy, the instant appeal is disposed of with a direction to the learned trial Judge to decide the pending application for temporary injunction positively on or before 20.07.2026, after independently evaluating the pleadings, affidavits and material placed on record and after making a lawful assessment of the three well-settled ingredients, namely, prima facie case, balance of convenience and irreparable injury, uninfluenced by the observations contained in the impugned order as well as the present order.

9. Till 20.07.2026, the parties shall maintain status quo with regard to the suit property and no third-party interest shall be created therein.

10. The application preferred under Order XLI Rule 27 CPC seeking permission to adduce additional evidence also stands disposed of. The appellant shall, however, be at liberty to move an





appropriate application before the learned trial Court in accordance with law.

11. Needless to observe, the learned trial Court shall make every endeavour to adhere to the time schedule indicated hereinabove.

(FARJAND ALI),J

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