

IN THE HIGH COURT OF MANIPUR AT IMPHAL

CRP(CRP.Art.227) No. 18 of 2018

Shri Ningthoujam Shenjai Singh aged about 32 years, S/o N. Madhu Singh of Khangabok Part-II Meishanam Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur.

... *Petitioner*

- Versus -

1. Puyam Thoiba Singh aged about 41 years, S/o (L) P. Bokul Singh of Langathel Nepram Leikai, P.O. Wangjing, P.S. Khongjom, Thoubal District, Manipur.
2. Sagolshem Ibocha Singh aged about 55 years, S/o (L) S. Gopal Singh of Langathel Kangjeibung Leikai, P.O. Wangjing, P.S. Khongjom, Thoubal District, Manipur.
3. Sagolshem Tangba Singh aged about 36 years, S/o S. Ibocha Singh of Langathel Kangjeibung Leikai, P.O. Wangjing, P.S. Khongjom, Thoubal District, Manipur and
4. Sagolshem Ingocha Singh aged about 33 years, S/o. S(O) Samashakhi Devi of Langathel Keithel Macha, P.O. Wangjing P.S. Khongjom, District Thoubal, Manipur.

... *Respondents/Defendants*

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner	:	Mr. Th. Ibohal, Sr. Advocate
For the respondent	:	Nemo
Date of Hearing	:	06.04.2023
Date of Judgment & Order	:	12.06.2023

JUDGMENT & ORDER [CAV]

[1] The issue involved in the present petition is as to whether the registered sale deed and the entry in revenue record, be relied upon to presume, on their face

values, the factum of possession of a party over the suit land while considering an application for temporary injunction initiated under Order 39 CPC.

[2] The petitioner/plaintiff herein filed the present petition under Article 227 of the Constitution of India challenging the impugned order dated 15.01.2018 passed by the learned District Judge, Thoubal, in Misc. Civil Appeal No. 2 of 2017. By the impugned order, the learned District Judge, Thoubal set-aside the order dated 18.09.2017 passed by the learned Civil Judge (Junior Division), Thoubal in Judl. Misc. Case No. 116 of 2016 (Ref:- O.S. No. 32 of 2016). Vide order dated 28.03.2018, this Court issued notice to the respondents/defendants who entered appearance and filed counter affidavit. Thereafter, respondents did not appear. Vide order dated 13.02.2020 in MC[CRP(CRP.Art.227)] No. 25 of 2019, this Court allowed the application for determination filed by the learned counsel for the respondents herein as there was no communication between the counsel and the clients. After the determination of the earlier counsel, none appeared on behalf of the respondents to defend this case and accordingly, matter was heard in absence of the respondents.

[3] Heard Mr. Th. Ibohal, learned senior counsel, assisted by Mr. L.N. Ngamba, learned counsel for the petitioner.

[4] Brief facts of the case is that the petitioner/plaintiff purchased an agricultural land measuring 1.1280 hectare under Patta No. 45/448(old)/488(new) covered by C.S. Dag No. 1027 situated in Village No. 45-Langathel, Thoubal District, Manipur under a registered sale deed being No. 1345 of 2014 of the Sub-Registrar, Thoubal, dated 11.11.2014 from one Lourembam Ibohanbi Singh for a sum of Rs. 8,00,000/- (Eight Lakhs). However, sale deed was registered for a sum of Rs. 2,25,000/- (Two lakhs and twenty five thousand) only for reducing the stamp value

and registered charge, etc. Subsequently, the name of the petitioner/plaintiff was mutated in the records of rights vide Mutation Case No. 705/AS & SO/TBL-II dated 12.11.2014 and has been paying taxes since then, and the petitioner/plaintiff is in possession of the said paddy land since the date of purchase by growing various types of paddy. On 03.07.2016, when the plaintiff was ploughing the suit land by using tractor, the respondents/defendants and their men and agents armed with deadly weapons entered the suit land and intervened in the peaceful possession of the plaintiff. Later on, the local neighbours intervened and subsided the matter. Then, the petitioner/plaintiff filed a suit for declaration of ownership and perpetual injunction against the defendants and the same was registered as O.S. No. 32 of 2016 in the Court of learned Civil Judge (Junior Division), Thoubal. Along with the suit, the petitioner/plaintiff also filed an application under Order 39 Rule 1 & 2 of CPC r/w Section 151 being Judl. Misc. Case No. 116 of 2016, to restrain the respondents/defendants from entering the suit land and from dispossessing the petitioner/plaintiff during the pendency of the suit. Vide order dated 12.07.2016 in Judl. Misc. Case No. 116 of 2016, learned Civil Judge (Junior Division), Thoubal, directed the parties to maintain status quo over the suit land till the application is determine on merit.

[5] The respondents/defendants filed joint written statement and counter claim. It is stated that there was no valid document for purchase of the land as the sale deed was void. The sale deed was void as the petitioner/plaintiff being a central government employee did not take permission for purchasing the same. It is also stated that recording of the name of the petitioner/plaintiff in the land record and including his name in the Jamabandi are not proof and evidence of title, and they are

made only for payment of the rent. It is stated that respondent/defendant Nos. 1 to 2 are tenants paying annual rent (laushal) to the original owner. It is also stated that respondent/defendant Nos. 1 & 2 have pre-emption right under the provisions of Section 132 of the Manipur Land Revenue and Land Reforms Act, 1960 (MLR & LR Act). It is also stated that the suit was bad for non-joinder of necessary party because legal heirs of L. Ibohanbi Singh (the original land owner) were not impleaded. The respondents/defendants also raised the counter claim against the plaintiff on the grounds that the (i) suit land belongs to L. Ibohanbi Singh, (ii) father of the respondent/defendant Nos. 1 & 2 were tenants during the lifetime of L. Ibohanbi Singh and after the deceased of their father they inherited the tenancy right. Accordingly, it is prayed in the counter claim that the plaintiff is not the owner of the suit land; the registered sale deed No. 1345 dated 11.11.2014 of the Sub-Registrar Thoubal, Manipur, be declared void and not binding on the contesting respondents/defendants; to declare that that Rev. Review Case No. 1/AS&SO/IW-II 31.03.2016 is without jurisdiction and the same are not binding to the contesting defendants. The respondents/defendants also filed joint written objection to the application under Order 39 Rule 1 & 2, being Judl. Misc. Case No. 116 of 2016.

[6] The petitioner/plaintiff filed rejoinder statement to the counter claim filed by the respondents/defendants. It is stated that the respondents/defendants have failed to proof their tenancy rights as per the provisions of MLR & LR Act, 1960 and the respondents/defendants have no jurisdiction to challenge the sale deed executed between the petitioner/plaintiff and the original owner.

[7] Vide order dated 18.09.2017 in Judl. Misc. Case No. 116 of 2016, learned Civil Judge (Junior Division), Thoubal allowed the application under Order 39 Rule 1 & CRP(CRP ART.227) NO. 18 OF 2018: N. SENJAI V/S P. THOIBA & ORS.

2 CPC and made absolute the ex-parte temporary injunction for maintaining status quo over the suit land till the disposal of the suit. It was held that prima facie case was in favour of the petitioner/plaintiff and the balance of convenience was in favour of the petitioner/plaintiff as sale deed and Jamabandi, prima facie, show that he is in possession of the suit land and if the temporary injunction is not granted it will cause irreparable loss to him. Being aggrieved by the order dated 18.09.2017 granting temporary injunction in favour of the plaintiff/petitioner, the respondents/defendants approached the Court of learned District Judge, Thoubal, by way of an appeal, being Misc. Civil Appeal No. 2 of 2017 under Order 43 Rule 1(r) CPC. In the impugned order dated 15.01.2018, learned District Judge observed that the factum of possession at the relevant time is to be established by factual evidence by affidavit as contemplated under Order 39 Rule 1(c) CPC and such cannot be accepted on the face value of the documents, such as, Sale deed and Jamabandi. Without any factual evidence to decide as to which party is in possession of the suit land, granting of temporary injunction is not sustainable in law. It was also observed that purpose of temporary injunction is to maintain status quo at the time of institution of the proceeding and the same is not intended to establish a new state of things different from what was existed at that time. Accordingly, temporary injunction granted by learned Civil Judge (Junior Division), Thoubal, vide order dated 18.09.2017 in Judl. Misc. Case No. 116 of 2016 was set aside and directed to reconsider by proper inquiry relating to the factum of possession. Relevant para of the impugned order are reproduced below:-

"15. Prima facie possession and enjoyment of the suit land on the date of the suit should be established by adducing necessary evidence by affidavit and documentary evidence. Weakness in the case of the other party can not be relied upon.

16. In the present case what the Court is to see is whether the plaintiff was/is in fact in possession of the suit land on the date of filing of the suit. Hence, what is relevant and important is the factum of possession at the relevant time.

The factum of possession is to be established by factual evidence by affidavit as contemplated under Order 39 Rule 1(c). The factum of possession cannot be accepted only on the fact of documents i.e., Sale deed and jamabandi etc.

17. In the present case, there is no factual evidence to decide as to which of the parties is in possession of the suit land. Without a clear cut picture of the factum of possession of the suit land by the plaintiff, the grant of temporary injunction is not sustainable in law.

18. The purpose of temporary injunction is to maintain status quo i.e., to preserve the status quo existing at the time of the institution of the proceeding. Temporary injunction is not intended to establish a new state of things different from the state which existed at the time when the proceedings were instituted.

19. In the conclusion, the impugned order dated 18.09.2017 granting temporary injunction is set aside and the temporary injunction matter may be re-considered by proper inquiry relating to the factum of possession of the suit land at the time of institution of the proceeding.”

[8] Being aggrieved by the impugned order, the petitioner/plaintiff approached this Court amongst on the following grounds:-

(a) Learned District Judge, Thoubal, has misconceived the 3 cardinal principles of granting temporary injunction as direction for conducting an inquiry before passing an order of temporary injunction is against the object as envisaged under Order 39 of CPC which requires passing of an order pending the main suit.

(b) While the petitioner/plaintiff is the purchaser of the suit land from the original owner L. Ibohanbi Singh, by way of a registered sale deed, the respondents/defendants could not produce any materials to show that they are the tenants of the original owner L. Ibohanbi Singh. The only option open to the respondents/defendants is to pursue the right

of pre-emption under Section 132(7) of the MLR & LR Act, 1960 for repurchase of the land from the transferee.

(c) The impugned order is in complete violation of principles of natural justice as the same was passed on the memo of appeal filed by the respondents.

[9] The respondents/defendants filed counter affidavit inter alia repeating the plea taken in the written statement cum counter claim filed by them before the Trial Court. It is also clarified that mere failure to produce the entry of the respondents/defendants name as tenants in the Khatian of the suit land is not relevant, for the fact that such entry are not usually made in Manipur. It is stated that they are tenants in actual possession.

[10] Mr. Th. Ibohal, learned senior counsel for the petitioner/plaintiff, submits that the learned District Judge, Thoubal wrongly construed the 3 cardinal principles for granting temporary injunction, i.e., (i) prima facie case, (ii) balance of convenience, and (iii) irreparable loss. He states that these 3 principles have to be ascertained on the basis of documents filed by the parties and no roving inquiry is to be undertaken by the Court, as the same have to be ascertained in the main suit in the course of the trial. In the present case, the petitioner/plaintiff produced a registered sale deed for purchase of the suit land in his favour and Jamabandi showing entry of his name in the revenue record as per prescribed procedure to establish his possession over the suit land. At the stage of granting temporary injunction, the Court has to examine the prima facie case of the parties on the basis of the documents adduced by them. On the other hand, the respondents/defendants did not produce any sort of documents in their favour to show that they are tenants in possession of the suit land except for

the oral averments made in the written statement-cum-counter claim filed by them. Learned senior counsel has emphasized that there should be a presumption of validity of registered deed and presumption of possession of a party over an immovable property purchased by a registered sale deed. He also reiterates that entry in the revenue record has a presumptive value of possession over the same, unless the same is fabricated document or procured by fraud. It is pointed out that in the present case, no material is placed on record to suspect that the sale deed was executed fraudulently or entry in the revenue record was not as per law. It is submitted that the learned District Judge wrongly set aside the order of temporary injunction granted by the learned Civil Judge (Junior Division), Thoubal.

[11] Mr. Th. Ibohal, learned senior counsel relies upon the following case laws:-

1. (1983) 1 GLR (NOC) 2

NIROD BANDHU SAHA SIKDAR *versus* RADHABALLAV SAHA SIKDAR.

- The object of granting temporary injunction is the discretionary power to be exercised on sound judicial principles, the object being to preserve status quo while rights are being litigation. It is to consider that the applicant has a prima facie case.

2. (1984) 1 GLR 188

THE STATE BANK OF INDIA & OTHERS *versus* SHRI RAJENDRA SINGH KOTHARI & ANOTHER.

- Para 5: The rules governing the grant of interim injunction are well known. The Court must be satisfied before granting an interim injunction that the claim of the plaintiff is not frivolous or vexatious but well founded that there is a serious question to be tried and there are fair chances of the suit by decreed as prayed. The Court has to see whether the plaintiff will be put to irreparable injury if the injunction prayed for is not granted.

3. (2013) 9 SCC 211

MOHD. MEHTAB KHAN AND OTHERS *versus* KHUSHNUMA IBRAHIM KHAN AND OTHERS.

-Para 21: The appellate Court, therefore, should not have substituted its views in the matter merely on the ground that in its opinion the facts of the case call for a different conclusion. Such an exercise is not the correct parameter for exercise of jurisdiction while hearing an appeal against a discretionary order. While we must not be understood to have said that the appellate court was wrong in its conclusions what is sought to be emphasized is that as long as the view of the trial court was a possible view the appellate court should not have interfered with the same following the virtually settled principles of law in this regard as laid down by this Court in *Wander Ltd. v. Antox India (P) Ltd.* [*Wander Ltd. v. Antox India (P) Ltd.*, 1990 Supp SCC 727]

[12] Mr. Th. Ibohal, learned senior counsel for the petitioner/plaintiff prays that the impugned order dated 15.01.2018 passed by learned District Judge, Thoubal in Civil Misc. Appeal No. 2 of 2017 be set aside and the order dated 18.09.2017 passed by the learned Civil Judge (Junior Division), Thoubal in Judl. Misc. Case No. 116 of 2016 granting temporary injunction against the respondents/defendants be restored.

[13] This Court has considered the submission of the learned senior counsel for the petitioner/plaintiff, the materials on record, and case laws in this regard. It is an admitted fact that the petitioner/plaintiff purchased the suit land from the original owner i.e. L. Ibohanbi Singh, by way of a registered sale deed dated 11.11.2014 and his name was duly registered in the land record i.e. Jamabandi as per procedure. In the written statement-cum-counter claim filed by the respondents/defendants, they alleged that they are the tenants of the original owner and inherited the right from their fathers. However, no document is shown such as tenant khatian as prescribed under Rule 57 r/w Form 9 of the MLR & LR Rules, 1961. At the stage of granting temporary injunction, the Court is not to do a roving inquiry and the 3 cardinal principles have to be ascertained from the materials and documents produced by the parties. Otherwise, the very purpose of granting temporary injunction during the

pendency of the main suit would be defeated. It may also be noted that oral evidence is a weak form of evidence and Section 92 of the Evidence Act excludes oral evidence to dispute the contents of a written document.

[14] In the case of **Jamila Begum v. Shami Mohd.: (2019) 2 SCC 727**, Hon'ble Supreme Court held that there is presumption in favour of a registered document. The relevant para is reproduced for the sake of brevity.

"16. Sale deed dated 21-12-1970 in favour of Jamila Begum is a registered document and the registration of the sale deed reinforces valid execution of the sale deed. A registered document carries with it a presumption that it was validly executed. It is for the party challenging the genuineness of the transaction to show that the transaction is not valid in law. In *Prem Singh v. Birbal*², it was held as under: (SCC pp. 360-61, para 27)

"27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption."

The above judgment in *Prem Singh case*² has been referred to in *Vishwanath Bapurao Sabale v. Shalinibai Nagappa Sabale*³.

[2 *Prem Singh v. Birbal*, (2006) 5 SCC 353

3 *Vishwanath Bapurao Sabale v. Shalinibai Nagappa Sabale*, (2009) 12 SCC 101 : (2009) 4 SCC (Civ) 646]

[15] In the case of **Placido Francisco Pinto (D) by L.Rs. and Ors. vs. Jose Francisco Pinto and Ors. (30.09.2021 - SC) : MANU/SC/0748/2021**, Hon'ble Supreme Court considered the presumption of a duly registered deed and exclusion of oral evidence to contradict the contents of written documents. Relevant para are reproduced below:

"26. In Roop Kumar, this Court was seized of an appeal filed by the Defendant arising out of a suit for possession and for rendition of accounts. The Plaintiff claimed that he entered into an agency-cum-deed of license with the Appellant-Defendant on 15.5.1975 and the terms of such agency-cum-licensing agreement was incorporated in an agreement dated 15.5.1975. The stand of the Defendant was that he was in lawful possession as a tenant under the Plaintiff. The trial

court decreed the suit holding that the transaction between the Respondent and the Appellant evidenced by an agreement dated 15.5.1975 amounts to license and not sub-letting. The question before the High Court was whether a relationship between the parties is that of a licensor and licensee or that of a lessor and lessee. The first appeal was dismissed. This Court held that it is general and most inflexible Rule that in respect of written instruments, any other evidence is excluded from being used either as a substitute for such instruments, or to contradict or alter them. This is a matter both of principle and policy. It was held that in Section 92 of the Evidence Act, the legislature has prevented oral evidence from being adduced for the purpose of varying the contract, such contract can be proved by production of such writing. It was held that Section 91 is concerned with the mode of proof of a document with limitation imposed by Section 92. If after the document has been produced to prove its terms Under Section 91, provisions of Section 92 come into operation for the purpose of excluding evidence of any oral agreement or statement for the purpose of contradicting, varying, adding or subtracting from its terms. This Court held as under:

17. It is likewise a general and most inflexible Rule that wherever written instruments are appointed, either by the requirement of law, or by the contract of the parties, to be the repositories and memorials of truth, any other evidence is excluded from being used either as a substitute for such instruments, or to contradict or alter them. This is a matter both of principle and policy. It is of principle because such instruments are in their own nature and origin, entitled to a much higher degree of credit than oral evidence. It is of policy because it would be attended with great mischief if those instruments, upon which men's rights depended, were liable to be impeached by loose collateral evidence. (See Starkie on Evidence, p. 648.)

18. In Section 92 the legislature has prevented oral evidence being adduced for the purpose of varying the contract as between the parties to the contract; but, no such limitations are imposed Under Section 91. Having regard to the jural position of Sections 91 and 92 and the deliberate omission from Section 91 of such words of limitation, it must be taken note of that even a third party if he wants to establish a particular contract between certain others, either when such contract has been reduced to in a document or where under the law such contract has to be in writing, can only prove such contract by the production of such writing.

xx xx xx

21. The grounds of exclusion of extrinsic evidence are: (i) to admit inferior evidence when the law requires superior would amount to nullifying the law, and (ii) when parties have deliberately put their agreement into writing, it is conclusively presumed, between themselves and their privies, that they intended the writing to form a full and final statement of their intentions, and one which should be placed beyond the reach of future controversy, bad faith and treacherous memory.

22. This Court in *Gangabai v. Chhabubai* [MANU/SC/0385/1981 : (1982) 1 SCC 4 : AIR 1982 SC 20] and *Ishwar Dass Jain v. Sohan Lal* [MANU/SC/0747/1999 : (2000) 1 SCC 434 : AIR 2000 SC 426] with reference to Section 92(1) held that it is permissible to a party to a deed to contend that the deed was not intended to be acted upon, but was only a sham document. The bar arises only when the document is relied upon and its terms are sought to be varied and contradicted. Oral evidence is admissible to show that document executed was never intended to operate as an agreement but that some other agreement altogether, not recorded in the document, was entered into between the parties.

(Emphasis Supplied)

27. A perusal of the above judgment would show that the oral evidence of a written agreement is excluded except when it is sought to be alleged the document as a sham transaction.

28. It is beyond dispute that a sale deed is required to be registered i.e. a document required by law to be reduced to the form of a document. Therefore, no evidence of any oral agreement or statement shall be admitted for the purpose of contradicting, varying, adding or subtracting from its terms. The proviso (1) of Section 92 of the Evidence Act on which reliance was placed is a proof of such fact which would invalidate any document such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law. Section 92 of the Evidence Act reads as under:

92. Exclusion of evidence or oral agreement.-When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, its terms:

Proviso (1).--Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law.

29. The Respondents were free to prove fraud in execution of the sale deed. However, factually, the Respondents have not alleged any fraud in their suit or in the written statement in the suit filed by Appellant No. 1. The feigned ignorance about the nature of document cannot be said to be an instance of fraud. In the absence of any plea or proof of fraud, Respondent No. 1 is bound by the written document on which he admitted his signatures and of his wife. There is no oral evidence which could prove fraud, intimidation, illegality or failure of consideration to permit the Respondents to lead oral evidence to dispute the sale deed dated 14.9.1970. Therefore, the judgments referred to by

Mr. Mehta are of no help to support his arguments. Thus, the findings recorded by the First Appellate Court as affirmed by the High Court are clearly erroneous in law and are, thus, set aside.”

[16] In the case of **Rattan Singh and Ors. vs. Nirmal Gill and Ors.** (16.11.2020 - SC) : **MANU/SC/0860/2020: AIR 2021 SC 899**, Hon’ble Supreme Court held that there is presumption of validity of a registered document. Relevant para are reproduced below for clarity.

“32. To appreciate the findings arrived at by the Courts below, we must first see on whom the onus of proof lies. The record reveals that the disputed documents are registered. We are, therefore, guided by the settled legal principle that a document is presumed to be genuine if the same is registered, as held by this Court in Prem Singh and Ors. v. Birbal and Ors. MANU/SC/8139/2006 : (2006) 5 SCC 353. The relevant portion of the said decision reads as below:

27. There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption.

(emphasis supplied)

In view thereof, in the present cases, the initial onus was on the Plaintiff, who had challenged the stated registered document.”

[17] From the above cited case laws, it is clear that there is a statutory presumption of validity of a duly executed registered deed and the onus is on the person who denies the same and it is to be proved in the proceedings of the main suit. It will be pertinent to conclude that a Court, while deciding an application for temporary injunction under Order 39 CPC, has to presume the validity and genuineness of the sale deed.

[18] In the case of **Partap Singh v. Shiv Ram: (2020) 11 SCC 242**, Hon’ble Supreme Court held that entries in the revenue record are generally to be accepted at their face value without any inquiry, if the same is not forged or fabricated one. It

will not be proper to rely on oral evidence to rebut the statutory presumptions.

Relevant portions are reproduced below:

"21. This Court in *Vishwa Vijay Bharati v. Fakhrul Hassan*³ held that the entries in the revenue record ought to be generally accepted at their face value and courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine, not forged or fraudulent entries. This Court held as under: (*Fakhrul Hassan case*³, SCC p. 645, para 14)

"14. It is true that the entries in the revenue record ought, generally, to be accepted at their face value and courts should not embark upon an appellate inquiry into their correctness. But the presumption of correctness can apply only to genuine, not forged or fraudulent, entries. The distinction may be fine but it is real. The distinction is that one cannot challenge the correctness of what the entry in the revenue record states but the entry is open to the attack that it was made fraudulently or surreptitiously. Fraud and forgery rob a document of all its legal effect and cannot found a claim to possessory title."

22. This Court in *Guru Amarjit Singh v. Rattan Chand*⁴ was examining a dispute of relationship of landlord and tenant. A copy of more than thirty years old lease deed was produced to prove the relationship between landowner and tenant. However, the revenue record did not show any payment of rent but only existence of terms of lease to pay rent. This Court held that non-production of the receipts of payment of rent clearly indicates that there was no relationship between landlord and tenants.

.....
25. The presumption of truth attached to the revenue record can be rebutted if such entry was made fraudulently or surreptitiously (*Vishwa Vijay Bharati case*³) or where such entry has not been made by following the prescribed procedure (*Bhimappa Channappa Kapali v. Bhimappa Satyappa Kamagouda*⁷). Even in *Guru Amarjit Singh*⁴, where thirty years' old lease deed was produced, this Court had not accepted the proof of the relationship between landowner and tenant in absence of receipt of payment of rent.

26. Therefore, we find that the presumption of truth attached to the record-of-rights can be rebutted only if there is a fraud in the entry or the entry was surreptitiously made or that prescribed procedure was not followed. It will not be proper to rely on the oral evidence to rebut the statutory presumption as the credibility of oral evidence vis-à-vis documentary evidence is at a much weaker level.

[3. *Vishwa Vijay Bharati v. Fakhrul Hassan*, (1976) 3 SCC 642

4. *Guru Amarjit Singh v. Rattan Chand*, (1993) 4 SCC 349 : AIR 1994 SC 227

7. *Bhimappa Channappa Kapali v. Bhimappa Satyappa Kamagouda*, (2012) 13 SCC 759 : (2014) 5 SCC (Civ) 419]

[19] As per the decision of **Partap Singh (*supra*)**, the entries in the revenue record are ought to be generally accepted on their face value and Courts are not to embark upon an appellate inquiry into its correctness. The presumption of truth of the revenue record can be rebutted if only there is a fraud in the entry or the entry was surreptitiously made without following the prescribed procedures.

[20] In the present case, the respondents/defendants have challenged the validity of the sale deed in the counter claim and the same has to be ascertained during the trial by adducing and leading proper evidence. It is not the case of the respondents/defendants that the entry of the name of the petitioner/plaintiff in the land record was made without following procedures prescribed by MLR & LR Act & Rules. The oral averments made against the statutory presumption will be barred by the provision of Section 92 of the Evidence Act.

[21] Accordingly, this Court is of the view that the registered sale deed and the revenue record i.e. Jamabandi, produced by the petitioner/plaintiff before the learned Civil Judge (Junior Division), Thoubal in a proceeding for temporary injunction initiated under Order 39 CPC, are relevant and have statutory presumptive value and can be considered by the Court while passing an order for temporary injunction. On the other hand, the respondents/defendants have failed to produce any document or material in support of their case except for the oral averment that sale deed and revenue entry were void and are not applicable. This is to be established during the trial. The Court, while considering an application for temporary injunction under Order 39 CPC, has to rely on the documents produced by the parties. This Court is of the view that learned District Judge, Thoubal was wrong in holding that factum of the possession over the suit land is to be established in an inquiry and such factum cannot

be accepted on the face value of the Sale Deed and Jamabandi. This finding is in contrast to the law propounded by the Hon'ble Supreme Court in the cases of Partap Singh (*supra*), Rattan Singh (*supra*), etc.

[22] In view of the above discussions, the revision petition under Article 227 of the Constitution of India is allowed. The impugned order dated 15.01.2018 passed by the learned District Judge, Thoubal in Misc. Civil Appeal No. 2 of 2017 is set aside and the order dated 18.09.2017 passed by the learned Civil Judge (Junior Division), Thoubal in Judl. Misc. Case No. 116 of 2016 granting a temporary injunction in favour of the petitioner/plaintiff and against the respondents/defendants is upheld. Parties are to bear their own expenses. Interim orders, if any, are vacated and pending applications, if any, are disposed of accordingly.

[23] Send a copy of this order to the learned District Judge, Thoubal and learned Civil Judge (Junior Division), Thoubal for information and proceeding as per law.

JUDGE

FR/NFR

Indrajeet