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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) No. 576/2006

16th September, 2015

CHATTAR SINGH MATHAROO

..... Plaintiff

Through: Mr. J.M.Kalia, Advocate.

versus

ASHWANI MUDGIL & ORS.

..... Defendants

Through: Mr. Arun Maitrey, Advocate

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. The subject suit is filed by the plaintiff for declaration and permanent injunction claiming ownership by adverse possession of the property admeasuring 100 sq. yds bearing no. WZ-140, Block-A, Uttam Nagar, New Delhi. Plaintiff does not claim to be the owner of this property by purchase but claims that he has become owner of the property under law of prescription as per para 5 of the plaint. Plaintiff pleads that the defendant no.3, with defendant nos.1 and 2 who are said to be unsocial elements, came to the suit property on 20.2.2006 and tried to take forcible possession of the suit property from the plaintiff but the plan of the defendants did not

succeed. Defendant no.3 is the wife of Sh. Lal Singh Matharoo. Sh. Lal Singh Matharoo is the brother of the plaintiff ie defendant no.3 is the *bhabhi* of the plaintiff. The plaintiff pleads that defendants have no right, title and interest in the suit property and therefore a declaration be granted that plaintiff has perfected his title by adverse possession and law of prescription under Articles 64 and 65 r/w Section 27 of the Limitation Act, 1963 and that the defendants be restrained from interfering with the peaceful possession, enjoyment and proprietary rights existing in favour of the plaintiff with respect to the suit property.

2 Defendants no.1 and 2 are really *proforma* parties because no rights are claimed by them in the suit property. It is the defendant no.3 who is claiming rights in the suit property and it is her defence with the evidence which has been led by her that will be material for disposing of the present suit. As per the written statement filed by defendant no.3, the suit property which is situated in Khasra No. 84, area of Village Hastal in the abadi of Uttam Nagar, was originally owned by Sh. Gurbax Singh son of Sh. Sewa Singh. The total area of the property WZ-140 was 200 sq. yds and 100 sq. yds of this property WZ-140 being the suit property was firstly transferred by Sh. Gurbax Singh to Sh. Rajesh Kumar son of Sh. R.B.Verma in terms of

the documents being the Indemnity Bond dated 26.3.1991, Receipt dated 26.3.1991, Will dated 27.3.1991, Affidavit dated 26.3.1991, an Agreement to Sell dated 26.3.1991 and General Power of Attorney dated 26.3.1991. These documents have been filed and proved as per the affidavit by way of evidence filed by the defendant no.3 as Ex.DW3/1 (colly). The documents exhibited as Ex. DW3/1(colly) also include further documentation dated 30.4.1991 by Sh. Rajesh Kumar to the husband of the defendant no.3. Defendant no.3 pleads that she purchased the suit property from her husband in terms of documentation dated 6.1.1994, and which documents have been filed and proved as Ex.DW3/2(colly). Defendant no.3 further as per her written statement pleads that her husband Sh. Lal Singh Matharoo was suffering from various diseases and she was living in Punjab and taking care of her husband and that the plaintiff has illegally tried to claim ownership and possession rights in the suit property. The defendant no.3 emphatically denies that the plaintiff has become owner of the suit property by adverse possession and law of prescription as claimed in the plaint.

3. The following issues were framed in the suit on 14.7.2008.

“1. Does the plaintiff prove entitlement to a decree of declaration that he is in continuous possession of the suit property i.e. WZ-140, Block-A, Uttam Nagar, New Delhi, as alleged in the plaint.OPP

2. Do the defendants prove that the defendant no.3 is the lawful owner in respect of the said suit property? OPD
3. Is the plaintiff entitled to the relief of injunction, as claimed? OPP
4. Relief.”

Issue No.2

4. Let me take up issue no.2 at the outset, inasmuch as, if the issue no.2 is proved in favour of the defendant no.3 then defendant no.3 will be held to be the owner of the suit property and the same will have bearing on the decision of issue no.1 with respect to claim of continuous possession and ownership by adverse possession by the plaintiff of the suit property.

5. I may note that the Will dated 30.4.1991 by Sh. Rajesh Kumar in favour of Sh. Lal Singh Matharoo, husband of defendant no.3 is a registered document and which document is registered at serial no. 21053, page 175 in additional book no. 1435 and thus the entire set of documents dated 30.4.1991 would have come into existence on 30.4.1991 itself and thus these documents would not lack genuineness and credibility. Similarly, it is seen that the Will dated 27.3.1991 executed by Sh. Gurbax Singh in favour of Sh. Rajesh Kumar is also registered with the Sub-Registrar on 27.3.1991 at serial no. 15390 in additional book no. 1404 at page 181, and therefore once again this fact confirms the genuineness of the existence of the

documents dated 26/27.3.1991 executed by Sh. Gurbax Singh in favour of Sh. Rajesh Kumar. The entire set of documentation dated 26/27.3.1991 by Sh. Gurbax Singh in favour of Sh. Rajesh Kumar and the documentation dated 30.4.1991 by Sh. Rajesh Kumar in favour of Sh. Lal Singh Matharoo, husband of defendant no.3 have been filed and proved and exhibited as Ex.DW3/1 (colly). The two Wills as stated above by Sh. Gurbax Singh in favour of Sh. Rajesh Kumar dated 27.3.1991 and Sh. Rajesh Kumar in favour of the husband of defendant no.3, Sh. Lal Singh Matharoo dated 30.4.1991 are registered documents, and hence taking judicial notice under Section 57 of the Indian Evidence Act, 1872 of the seals of the Sub-Registrar with the details of registration under Section 114 Illustration (e) of the Indian Evidence Act, it is held that the entire set of documents came into existence on the dates which are stated in these documents viz 26/27.3.1991 and 30.4.1991 and the defendant no.3 will hence have title rights in the suit property, additionally noting that plaintiff even as per the plaint does not claim ownership rights by purchase of the suit property. I may note that defendant no.3 has also relied upon the documents dated 6.1.1994 executed in her favour by her husband Sh. Lal Singh Matharoo and these documents have been proved in the evidence of the defendant no.3 and exhibited as Ex.DW3/2(colly), but, even assuming that the documents dated 6.1.1994 in

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favour of the defendant no.3 would not exist, though they do exist and have been proved as stated above, defendant no.3 being the wife of Sh. Lal Singh Matharoo, would definitely be the owner of the suit property on account of devolution of interest from Sh. Lal Singh Matharoo to her of the suit property. The documents dated 6.1.1994 executed by Sh. Lal Singh Matharoo in favour of his wife/defendant no.3 include the usual documents of the agreement to sell, affidavit, receipt and general power of attorney. The set of documents which have been filed and proved by the defendant no.3 are the usual set of documents by which title rights in the property used to be transferred in Delhi and such documents are valid documents before 24.9.2001, and after which date such documents could only have been looked at if the agreement to sell was registered by putting stamp duty of 90% of the sale price of the property. This was because Section 53-A of the Transfer of Property Act, 1882 was amended by the Act 48 of 2001 requiring that w.e.f 24.9.2001 for taking the benefit of the doctrine of part performance under Section 53-A of the Transfer of Property Act qua the agreement to sell, the agreement to sell had to be stamped and registered.

6. Learned counsel for the plaintiff argued that even if the Wills which are part of Ex.DW3/1 (colly) are registered Wills, however, since the

Will has to be proved as per the Indian Succession Act, 1925 by calling at least one attesting witness and since defendant no.3 has not called any attesting witness to the Wills to prove the Wills, the Wills are therefore not proved. This argument of the plaintiff is not a valid argument and I have dealt with the same in the judgment in the case of ***Ramesh Chand Vs. Suresh Chand & Anr. 2012 (188) DLT 538*** wherein I have said that where a Will is one of the many documents which are executed for transferring title in the suit property, the Will does not have to be classically proved like a Will is proved in a succession case under the Indian Succession Act. This aspect has been considered by me in para 8 of the judgment and which reads as under:-

“8. Great stress was laid on behalf of the appellant to the fact that the respondent No.1/plaintiff had failed to prove the Will, Ex.PW1/5 in accordance with law inasmuch as no attesting witnesses were examined. Reliance is placed on behalf of the appellant on the judgment of the Supreme Court in the case of *Kashibai & Anr. Vs. Parwatibai & Ors.* 1995 IV AD S.C. (C) 41 to argue that the Will has to be proved in terms of the provisions of Indian Succession Act, 1925 and Section 68 of the Evidence Act, 1872 by calling of the attesting witnesses and if the same is not done merely because there is an exhibit mark given to the Will, the same cannot be said to be proved.

In my opinion, the judgment of the Supreme Court in the case of *Kashibai & Anr.* (supra), and various other judgments which deal with the issue of requirement of a Will having to be proved by summoning of an attesting witness, are judgments given in those cases where there are inter se disputes between the legal heirs of a deceased testator and the validity of the Will is questioned in those circumstances. Observations in the said judgments cannot have

application to the facts of those cases where the disputes with regard to Will are not classical disputes between the legal heirs of the deceased testator and the Will is an instrument which really furthered an intent to transfer the rights in an immovable property by the testator to the beneficiary. I may note that in the present case, there is absolutely no cross examination at all on behalf of the appellant when the registered Will was proved and exhibited in the statement of the respondent No.1/plaintiff as PW-1. Once there is no cross-examination, in the cases such as the present, which are different than the classical disputes inter se the legal heirs of a deceased testator, I would feel that the Will should be held to be a proved document inasmuch as the object of the Will in cases such as the present was really to transfer rights in an immovable property after the death of the testator. Further, I may note that the observations with respect to Will having to be very strictly proved by calling the attesting witness are in probate cases where the judgment is a judgment in rem whereas in the present case the judgment on the basis of ownership rights devolving upon the respondent No.1/plaintiff under a Will will not be a judgment in rem but only a judgment inter se the parties. Also another aspect to be borne in mind is that besides the two sons of the deceased Sh. Kundan Lal, who were the plaintiff and defendant No.1 in the suit, the other legal heirs of the deceased Sh. Kundan Lal were very much in knowledge of the present litigation but they never chose to add themselves as parties. Whereas the other son i.e. the brother of the parties to the present suit, Sh. Ram Swaroop deposed in favour of respondent No.1/plaintiff as PW-2, the only daughter of the deceased Sh. Kundan Lal namely Smt. Krishna deposed in favour of the appellant/defendant No.1 as DW-2. Therefore, all the interested parties, who would claim any benefit in the suit property, were aware of the subject litigation.” (underlining added)

7. I may also note that the plaintiff before commencing of cross-examination of defendant no.3, did not raise any objection with respect to exhibition of the documents, including the documents collectively exhibited as Ex.DW-3/1 (colly), and therefore in view of the ratio of the judgment of

the Supreme Court in the case of ***R.V.E. Venkatachala Gounder Vs. CS(OS) No. 576/2006***

Arulmigu Viswesaraswami & V.P. Temple & Anr. AIR 2003 SC 4548, the plaintiff now cannot during the course of arguments question the exhibition and proof of the documents including Ex.DW3/1 (colly).

8. Therefore I do not agree with the arguments urged on behalf of the plaintiff that the Wills in this case forming part of the documents Ex.DW-3/1 (colly) are not validly proved.

9. I therefore reject the arguments urged on behalf of the plaintiff that no title was transferred to Sh. Lal Singh Matharoo by virtue of the documents dated 30.04.1991.

10. Another related argument urged by the plaintiff was that the documents Ex.DW-3/1 (colly) are not registered documents and therefore cannot be looked into, but this argument is not a valid argument and is otherwise dealt with by me in the earlier part of the judgment observing that the documents in question are prior to 24.09.2001 before the Act 48 of 2001 was brought in for amending various provisions including Section 53-A of the Transfer of Property Act, 1882. Therefore, the argument of plaintiff is rejected that there was a requirement of the registration of documents Ex.DW3/1 (colly).

11. In view of the above, issue no.2 is decided in favour of defendant no.3 and against the plaintiff holding that the defendant no.3 by virtue of title documents dated 30.4.1991 and/or 6.1.1994 was the owner of the suit property.

Issue no.1

12. The next issue to be decided is whether defendant no. 3 has lost ownership interest in the suit property because plaintiff has become the owner of the suit property by adverse possession and law of prescription.

13. At this stage, let us note the law with respect to a person becoming the owner by adverse possession and law of prescription. This law is well settled and which is that a person who claims ownership by adverse possession, must lead evidence before the Court so as to show *nec vi, nec clam, nec precario* ie possession which is open/peaceful, hostile and continuous of the suit property for 12 years as against the true owner. It may also be stated that courts frown upon the claim of adverse possession, and which is required to be proved strictly, inasmuch as, the claim of adverse possession commences in a wrong act and continues against a right ie the action of adverse possession commences in a wrongful act of taking possession of

the property of another person and such wrongful possession is maintained against a right being the ownership right of the owner of the property. Let us examine therefore the evidence led by the plaintiff in the present case as to whether the plaintiff has established by evidence as required by law to prove ownership by adverse possession and law of prescription.

14. On behalf of the plaintiff reliance is firstly placed upon the certificate issued by the Punjab National Bank, Ex.PW1/4 showing that the plaintiff was the sole proprietor of a firm M/s Matharoo Construction Equipments with the address of the suit property and of which firm a current account was maintained in the bank since 1.2.1988 till issuing of the certificate on 7.3.2006. The second document relied upon by the plaintiff is the Municipal License issued by the Municipal Authorities of Delhi on 19.9.1995 to the firm of the plaintiff at the address of the suit property, and which is exhibited as Ex.PW1/5. The third document which is relied upon by the plaintiff is an Acknowledgment of the Sales Tax Assessing Authority of filing of sales tax returns by the plaintiff for the year ending 31.3.2005, Ex.PW1/3, from the suit property. The plaintiff has then filed a House Tax Receipt dated 24.3.2006 showing payment of House Tax (Ex.PW1/9) of Rs.3400/- for the suit property. Plaintiff has also filed a Registration

Certificate dated 29.4.1988, Ex.PW1/2, that plaintiff has been registered before the Sales Tax Authority with respect to its aforesaid firm for the year 1988. Plaintiff has finally relied upon the photographs, Ex.PW1/6 to 8, to show that the plaintiff is in possession of the suit property as on date of the suit.

The issue is that whether the aforesaid documents establish open/peaceful, hostile and continuous possession of the suit property for 12 years by the plaintiff for the plaintiff to be given ownership rights in the suit property on the basis of the doctrine of adverse possession and law of prescription.

15. The requirement of law is that not only possession has to be proved to be hostile by specifically claiming ownership rights of the suit property but also that the possession has to be shown to be continuous without any break for a continuous period of 12 years. Unless the aforesaid aspects exist simultaneously, courts will not accept the claim of ownership by adverse possession and law of prescription, and which claim as stated above is not easily accepted by courts.

16. In my opinion, the aforesaid documents proved by the plaintiff do not establish ownership by adverse possession because these documents

do not show the twin requirements of hostile and continuous possession of 12 years and the reasons for the same are as under:-

(i) No doubt the documents of the Punjab National Bank's account Ex.PW1/4, License issued by Municipal Authority ((Ex.PW1/5) dated 19.9.1995 and Sales Tax Registration Form (Ex.PW1/2) dated 29.4.1988 do show existence of plaintiff in the suit property in the years 1988, 1995 and 2006, however, proving of the aforesaid documents do not show hostile and continuous possession rights continuously without break from 1988 to 2006 as these documents filed and relied upon by the plaintiff are not for each year from 1988 to 2006 or even 2000 for that matter.

(ii) It is also relevant at this stage to note that the plaintiff and defendant no.3 are not strangers. As stated above, defendant no.3 is the wife of the plaintiff's brother. Therefore, once the relations are as close as of a brother-in-law and sister-in-law, even if the plaintiff has filed documents to show his existence in the years 1988, 1995 and 2006, really the possession will be shown only as interspersed/disjointed/non-continuous, and, definitely not coupled with the mandatory assertion/claim of ownership ie claiming a title hostile by the plaintiff and against the defendant.

(iii) Even a tenant for that matter can have sales tax registration and municipal license from a tenanted premises, and thus the existence of the documents therefore filed by the plaintiff only show his limited possession at best of the suit premises at certain points of time in 1988, 1995 and 2005/2006 and definitely not a possession with the existence of a hostile claim of ownership as against the true owner defendant no.3. Also, the municipal registration is shown only in 1995 but is not shown to be continued thereafter 1995 till the filing of the suit in the year 2006. Further, counsel for defendant no.3 is justified in arguing that a bank certificate of existence of an account is not a proof of regular and continuous operation of the account and regular and continuous operation of the account can only have been proved by showing various continuous entries in the said bank account from the year 1988 till 2006 when the certificate was filed, but, the plaintiff has deliberately not filed the continuous statement of account from the year 1988 to 2006, and only which would have shown that the plaintiff was in continuous possession of the suit property for the years from 1988 to 2006. It is also to be noted that even assuming a bank account would have been filed of Punjab National Bank, it is well known that during the years 1988, the opening of a bank account was not done by physical and personal verification of the address of an account holder either by a bank officer

visiting the site or by registered letters being issued by the bank and received at the site/address to show authenticity of residence/possession of the proposed account holder of the address. Also, assuming the bank account would have been opened in 1988 by physical verification at site, obviously there is no subsequent physical verification of possession of the plaintiff of the suit property from the years 1988 to 2006 for which period the bank account of the plaintiff is said to have been maintained in Punjab National Bank.

(iv) This is all the more so because of the fact as stated above that there are very close relations, and therefore, the defendant no.3 would have a right to be indolent with respect to the aspect that her brother-in-law/plaintiff may be using the suit property, and the use of the property is definitely not equivalent to an assertion of hostile title of the suit premises by the plaintiff and against the defendant no.3.

(v) The aforesaid aspect is to be buttressed by the fact that the defendant no.3 till 1994 was not residing in Delhi but was residing in Punjab alongwith her husband and her husband is said to have been suffering from various diseases.

(vi) Therefore, at the very best, there can be a claim which is set up of possession of the suit premises, but not a possession coupled with the hostile claim of ownership of the suit property by the plaintiff.

(vii) In fact in my opinion too much weight cannot be put on the aforesaid documents Ex.PW1/4 (Punjab National Bank's Certificate), Ex.PW1/5 (Municipal Licence) and Ex.PW1/2 (being the Sales Tax Registration Certificate), inasmuch as, a continuous possession ought to have been in fact proved by showing water and electricity connections in the suit property for the period of 12 years prior to filing of the suit and which factual position would show possession of each month and year for 12 years.

17. While arriving at the aforesaid conclusion of the plaintiff having failed to prove ownership by adverse possession by open, hostile and continuous possession, it is noted that curiously the House Tax Receipt Ex.PW1/9 and the Sales Tax Returns Ex.PW1/3 filed by the plaintiff are of the years 2005 and 2006 i.e only of the year immediately before filing of the suit in the year 2006 ie there are no documents filed to show that the plaintiff had paid house tax of the property for 12 years prior to filing of the subject suit in the year 2006 and that the plaintiff had filed continuous sales tax

returns for 12 years prior to filing of the suit for showing plaintiff's possession of the suit property for twelve years.

18. Therefore, for all the aforesaid reasons, at best interspersed, disjointed or non-continuous possession of the plaintiff is shown by the plaintiff in the suit property that too without any proof of hostile claim of ownership of the suit property; and against a near family member being the defendant no.3; and therefore, I hold that plaintiff has failed to lead such evidence which on preponderance of probabilities would establish to the satisfaction of this Court a continuous hostile claim of ownership and adverse possession of the suit property for a period of 12 years.

19. Learned counsel for the plaintiff argued that defendant no.3 is in fact guilty of making false statements inasmuch as defendant no.3 in the written statement claimed that she was in Punjab taking care of the husband, though address of the defendant no.3 in the documents dated 06.01.1994, Ex.DW3/2 (Colly) is shown at Delhi of WZ-3/78-A. The argument of the plaintiff in this regard is misconceived for two reasons, inasmuch as, firstly assuming that defendant no.3 has made a false statement, but, mere making of a false statement by the defendant no.3 of her residence in Punjab although the documents of 1994 show her residence to be in Delhi will not

in any manner help the plaintiff to prove his claim of adverse possession. Secondly, it may be noted that the argument urged on behalf of the plaintiff is not factually correct because at best from 1994 that the defendant no.3 could be taken to be residing in Delhi but before 1994, the defendant no.3 would be residing in Punjab along with her husband who was suffering from various diseases. In any case really nothing turns on this aspect with respect to discharge of onus on any of the issues framed in this case.

20. It is noted that the right of the defendant no.3 to cross-examine PW-1 – plaintiff was closed vide Order dated 11.04.2013, however, at best by lack of cross-examination the documents of the plaintiff would be proved, and this Court in the absence of cross-examination will have to carefully scrutinize the evidence led by the plaintiff to determine as to whether the suit claim of ownership by adverse possession and law prescription in order to determine as to whether the case of the plaintiff has been proved by the plaintiff to the satisfaction of this Court. It is also simultaneously noted that even defendant no.3 who appeared as D3W1 was only partly cross-examined by the plaintiff and even the plaintiff's right of further cross-examination of D3W1 was closed vide Order dated 24.11.2014

and thus really both the parties have failed to cross-examine the witnesses of the other party.

21. Thus, both the parties have been less than diligent in pursuing their respective cases, and therefore upon this Court, has been thrown the onerous responsibility in such circumstances to decide the suit, and which would thus be really on the basis of the documents which have been filed and proved in this case alongwith the law as applicable as regards adverse possession. It is noted that even if the defendant no.3 was *ex parte* in the present case, onus to prove ownership by adverse possession was on the plaintiff and the plaintiff had to discharge this onus by leading evidence which this Court will believe with respect to continuous, peaceful and hostile possession of the plaintiff by asserting title, but as already discussed above, interspersed documents of different years – of 1988, 1995 and 2006, without there being continuity of the documents with respect to possession, it cannot be held that possession of the plaintiff was continuous for a period of 12 years prior to filing of the suit. Also, as already discussed, mere possession is not sufficient unless it is also established before this Court that possession was by asserting simultaneously a title in the plaintiff, and the documents filed by the plaintiff do not show any assertion of hostile

title/ownership of the plaintiff against the defendant no.3, inasmuch as, the documents proved by the plaintiff are only such documents to show the presence of the plaintiff in the suit property but such presence cannot be said to be of an owner asserting hostile title against the true owner/defendant no.3, inasmuch as, even a tenant or a person in a permissive possession can be shown to be filing sales tax returns from a place or carrying on business in terms of the municipal licence but such possession of a tenant does not amount to claim of hostile assertion of title. The onus of proving hostile assertion of title and continuous possession was therefore squarely upon the plaintiff and which the plaintiff failed to discharge and thus the arguments of the plaintiff of lack of cross-examination cannot be accepted including because even the plaintiff failed to completely cross-examine the defendant no.3 as the right of the plaintiff even was closed of cross-examination of the defendant no.3.

22. I therefore hold that the plaintiff has failed to prove his claim of ownership by adverse possession (and law of prescription) of the suit property as the plaintiff has failed to lead such evidence before the Court which would satisfy the judicial conscience of this Court on preponderance of probabilities that the plaintiff had been in continuous possession by

asserting a hostile claim of title for a 12 years period prior to filing of the subject suit. Issue no.1 is decided in favour of the defendant no.3 and against the plaintiff.

Issue No.3

23. In view of the decision of issue nos.1 and 2 in favour of the defendant no.3 and against the plaintiff, issue no.3 has to be decided in favour of defendant no.3 and against the plaintiff that the plaintiff is not entitled to the relief of injunction claimed on the basis that the plaintiff has become owner of the suit property by adverse possession and the law of prescription.

24. Learned counsel for the plaintiff, as a measure of desperation so to say, finally sought to argue that the plaintiff is entitled to the relief of injunction because plaintiff is in settled possession of the suit property, however, it is noted that relief of injunction as prayed for not interfering with the possession of the plaintiff is not based on any cause of action of the plaintiff being in settled possession in alternative to the cause of action of ownership by adverse possession, and therefore the relief of injunction prayed as per the suit has necessarily to be correlated only with respect to claim of ownership by adverse possession of plaintiff of the suit property ie

not a claim with respect to any claim of plaintiff on account of being in settled possession of the suit property. Once no case was set up before this Court by urging any such cause of action in the plaint of settled possession of the plaintiff, and because of which no issue of the plaintiff being in settled possession was framed, the plaintiff therefore is not entitled to injunction as prayed before this Court. If such a totally new case is allowed to be urged by the plaintiff at the stage of final arguments then grave prejudice will be caused to the defendant no.3 who has not defended the case on the basis now argued. This argument of the plaintiff is also therefore rejected and issue no.3 is decided against the plaintiff and in favour of the defendant no.3.

RELIEF

25. In view of the above discussion, and deciding of the issues in the suit in favour of the defendant no.3 and against the plaintiff, suit of the plaintiff is dismissed. Parties are left to bear their own costs. Decree sheet be drawn accordingly.

SEPTEMBER 16, 2015

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VALMIKI J. MEHTA, J.