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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RSA 8/2026, CM APPL. 1734-1736/2026**

SHRI RAMESH PARKASH

.....Appellant

Through: Mr. Tarun Kumar Bhardwaj,
Advocate.

Versus

SHRI BALBIR SINGH

.....Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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12.01.2026

1. Regular Second Appeal under Section 100 CPC has been filed on behalf of the Appellant against the Judgment and Decree dated 18.08.2025 of learned JSDCC/ASCJ/Guardian Judge-01, Delhi in RCA SCJ No.340/2016, whereby the Judgment of Dismissal of Suit for Permanent Injunction dated 01.10.2012 by learned Senior Civil Judge, Delhi, has been set aside and the Suit has been decreed.

*2. The **brief facts** are that a **Suit for Permanent Injunction** was filed by **Balbir Singh, Respondent** in the year 1999 wherein he alleged that he had purchased the Plot of land No.22 ad-measuring 261 sq. yds forming part of *Khasra* No.98/1/1, Swaran Park Extn., village Mundka, from *Shri Shyam Lal* on 21.12.1988 for a valuable consideration of Rs.30,000/-, on execution of Agreement to Sell, GPA, Affidavit, Receipt, etc. who was the owner and in possession of the Suit property. Shri Shyam Lal in turn, had purchased the Plot from *Ram Kishan* on 26.05.1998 who in turn had purchased it from *Satish Kumar and Krishan Kumar* on 18.12.1986. Each of the vendors had*



executed the conventional documents i.e., Agreement to Sell, GPA, etc. in favor of the subsequent purchaser. *Satish Kumar and Krishan Kumar were the actual owners/Bhumidars of the said Khasras*. They had sold the other portions of the *Khasra* to other persons.

3. Shri Shyam Lal had handed over the vacant and peaceful physical possession of the Plot in the year 1999 and since then the Plaintiff has been in physical possession of the property. He asserted that at the time of purchase, there was a boundary wall on two sides of the adjoining plot owners and on the other two sides, the Plaintiff had raised the boundary wall.

4. **Balbir Singh**, the plaintiff therefore, asserted that having purchased the property from Shri Shyam Lal on execution of valid documents of Title, he acquired the ownership and Defendants had no right, title, or interest in the Suit property. However, Defendant No.1, who is a muscle man and Property Dealer by profession and a land grabber who is in the habit of taking forcible possession of plots and land of others, had made an endeavor to forcibly take the possession of the Suit plot.

5. The Plaintiff, Balbir Singh went to the Suit Plot on 27.07.1999 and was shocked to see that Defendant No.1 had removed the *kachha* boundary wall of the Plot and was attempting to occupy the Plot. The Plaintiff protested and did not let him do so. He approached the Local Police PS Nangloi, but the Police failed to take any action. He then gave a Complaint in writing on 02.09.1999 to SHO and another Complaint to the DCP on 13.09.1999, though to no avail. The Plaintiff claimed that the Local Police, in league with the high-ups in the Police, did not take any action on his Complaints.



6. On 16.09.1999 while the Plaintiff was present on his Plot in the evening, Defendant No.1 Shri Ramesh Parkash/Appellant accompanied by Defendant No.2 Shri Satbir Singh again came to the Plot and claimed to be the owner of the same, having purchased the same from Defendant No.2. Defendant No.1 threatened to take forcible possession of the Suit property. The Plaintiff, thus, filed a ***Suit for Permanent Injunction to restrain the Defendant from taking forcible possession of the Suit property.***

7. **The Defendant No.1/Sh. Shri Ramesh Parkash in his Written Statement** took an objection that the Plaintiff was neither the owner nor in possession of the Suit property and the Suit was not maintainable. He explained that *Shri Satbir Singh* had purchased the Suit Property from *Krishan Kumar and Satish Chander*, sons of Ghasi Ram, on 13.01.1987 on payment of sale consideration of Rs.30,000/-. The defendant No.1 became the owner of the Plot in question, having purchased it vide Agreement to Sell, etc. dated 12.04.1999 and was handed over the physical possession of the Plot, by *Shri Satbir Singh*. He thereafter, had raised the boundary wall on the two sides and fixed the Iron Gate. The chain of the purchasers as detailed by the Plaintiff in his Plaint, was denied, though it is admitted that the original owners were *Krishan Kumar and Satish Chander*.

8. **Defendant No.2/Sh. Shri Satbir Singh** in his **Written Statement** asserted that he was in physical possession of the Suit property till 12.04.1999 and thereafter, sold the property to Defendant No.1 vide Agreement to Sell, etc.

9. After the framing of **Issues**, **the parties led their evidence.**

10. **Learned Civil Judge** in the impugned Judgment dated 01.10.2012, on appreciation of evidence, concluded that the Plaintiff had not been able to



establish a title better than that of the Defendants in the Suit plot and **thereby dismissed the Suit.**

11. The *Regular First Appeal* RFA No.17/2012 was preferred by the Plaintiff/Balbir Singh wherein the learned ASCJ allowed the Appeal and set aside the Judgment dated 01.10.2012 and the Suit of the Plaintiff was decreed and Injunction was granted against the Appellant/Defendants.

12. Aggrieved by this Order of learned ASCJ, the **present Regular Second Appeal** has been preferred by the Appellant/Defendant.

13. The **question of law** raised is *whether a Suit for Permanent Injunction is maintainable without claiming Declaratory or title relief*; and **secondly** *whether the Declaration of possessory title only is maintainable*, where the title of the Claimant is under shadow or cloud.

14. *The grounds for challenge* are that the Local Commission had been appointed who had given a Report that there was a heap of cow dung on the plot and no party was found to be in possession. The Appellant has contended that it is not possible for the heap the cow dung being kept on the Plot without one using the property regularly. The cow dung on the suit plot belonged to the Appellant as he lives in the same village and uses the Suit property for dumping the cow dung.

15. It has not been further appreciated that just by painting the name by the plaintiff on the door in the night would not make the Respondent/ Balbir Singh an owner of the Suit property. It belongs to the person who had the belongings inside the property. The Suit property was never locked by either of the parties, nor has any finding regarding the possession been given by the Local Commissioner.



16. It has not been appreciated that merely lodging an FIR against the sellers i.e., Krishan Kumar and Satish, would not disentitle the Appellant from possession and title. Moreover, the Criminal Case is still pending adjudication. PW1 Balbir Singh has admitted in his evidence that he had not filed any Complaint against the Defendant. It has been wrongly held by the Appellate Court that the Criminal Case has gone against Satish and Krishan. It has not been appreciated that the statements before the Police, are not admissible in evidence.

17. It is further not appreciated that Defendant No.2 Satbir Singh was not competent to execute the documents in favor of the Appellant, in the year 1999 at which time he was about 23 years old. The Plaintiff as PW1, had categorically admitted that he did not take the possession and no Possession Letter was executed by Shyam Lal in his favor. He further admitted that he did not go to the site to ascertain its boundaries.

18. The Respondent is living at least 30 Kms. away from the Suit property, whereas the Appellant is residing near to the Suit property.

19. The DW5/Sh. Satish Chander had categorically stated that he had sold the property to Defendant No.2/Satbir Singh and doubt on the execution of the documents qua the suit property is against the Respondent, as DW5 was the co-sharer and both the brothers who executed the documents in favor of the Appellant were totally competent to transfer their property to anyone.

20. It is further asserted that a simpliciter Suit for Permanent Injunction without seeking Declaration of Title, is not maintainable where the possession and the title is in dispute and there are complicated questions of law. In the present case, complex issue of title of the parties to the Suit



Property on the basis of title documents was involved, which could not have been decided in the Suit for Injunction.

21. Reference is made to Anathula Sudhakar vs. P. Buchi Reddy through L.Rs, Civil Appeal No.6191 of 2001, Supreme Court and Tehsildar, Urban Improvement Trust vs. Ganga Bai Menariya Through L.Rs, Civil Appeal No.722 of 2012, Supreme Court.

22. A prayer is, therefore, made that the impugned Judgment dated 18.06.2025 of learned ASCJ, be set aside.

Submissions Heard and Record Perused.

23. A **Suit No. 39/2010 for Permanent Injunction** was filed by the Plaintiff Balbir Singh (Respondent herein) for restraining his illegal dispossession by the Defendant (Appellant herein).

24. The Issue was framed as under:

(1) *Whether the Plaintiff is entitled for the relief of Permanent Injunction as prayed for? OPP*

(2) *Relief.*

25. The evidence was led by the parties. The Plaintiff in support of his case examined himself as **PW1** and three other witnesses namely *Vijender Lakra, Randhir Singh, and Balraj Kaushik*.

26. The **Defendant No.1** examined himself as **DW1**, DW2/Constable Hari Om, DW3/Suresh Kumar Ahlmad, DW4/Krishan Kumar LDC from the office of Sub-Registrar, DW5/Satish Chander, DW6/Chand Ram and DW7/Shri Satbir Singh (Defendant No.2).

27. The learned Civil Judge did not find favor in granting the Injunction in favor of plaintiff and dismissed the Suit on 01.10.2012. However, the



fortune turned for the plaintiff when he succeeded in RFA SCJ No.340/2016 and the learned ASCJ decreed the Suit of the Plaintiff and granted an Injunction against the defendant. The relief so granted to the Plaintiff/Respondent has compelled the Appellant Ramesh Parkash to file the present Appeal.

28. The Plaintiff/Respondent had been claiming a title in the Suit property on the basis of the GPA/Agreement to Sell, etc. dated 21.12.1988 executed in his favor by Shyam Lal. However, the Appellant/Defendant is also staking his claim on the basis of similar documents, having purchased the property from Satbir. Pertinently, the chain of documents for both the parties, commence from Satish Kumar and Krishan Kumar, sons of Ghasi Ram were the original owners of the Suit plot.

29. The learned Civil Judge in the impugned Judgment observed that the Suit plot was an open plot of land wherein both the parties were claiming to be in possession. In these circumstances, the presumption of possession follows the title. Therefore, for the limited purpose of ascertaining whether the Plaintiff had the title and the consequent possession, the sale documents of the Plaintiff were considered.

30. The Respondent asserted that the original owners Satish Kumar and Krishan Kumar sold the property to Ram Krishan who in turn sold it to *Shri Shyam Lal* and thereafter, the property was purchased by the Plaintiff/Respondent. Pertinently, the entire chain of documents through which the title is alleged to have travelled from one person to another is through ATS/ GPA/ Will etc. The Plaintiff proved his GPA/ Agreement to Sell/ Affidavit/ Receipt dated 21.12.1988 as Ex.PW1/1 to Ex.PW1/4 respectively. The documents of sale i.e. GPA, etc. in favor of the erstwhile



purchaser of property i.e. Shyam Lal, which had been executed in his favour by the erstwhile owner Ram Kishan, were proved by PW4 Balraj Kaushik Ahlmad from the Court of learned ACMM, where these documents had been filed in the Criminal Case titled *State vs. Ram Prakash*. The certified copies were compared with the originals and the documents were so exhibited as Ex.PW4/1 to Ex.PW4/4. The Plaintiff, however, had only the photocopies of the title documents handed over by the original owners i.e. Satish Kumar and Krishan Kumar to Ram Krishan which were exhibited as GPA Mark X1/D1, Agreement to Sell Mark X1/D2 and Affidavit as Mark X1/D3.

31. The learned Civil Judge noted that the set of documents executed by the original *Bhumidars* in favor of Krishan Kumar were not proved by any cogent evidence and being the photocopies, the same could not have been considered especially when the alleged co-owner Satish Kumar had denied executing these documents. The first set of Agreement to Sell, etc. Mark X1/D1 to Mark X1/D3 were thus, not proved to establish the transfer of the Plot to Krishan Kumar and thereafter, to subsequent Purchasers.

32. While there was a reference to the sale documents, but that was not the basis for denying Injunction to the Plaintiff. The learned Civil Judge, in fact referred to ocular evidence and the Report of the Local commissioner, to conclude that the Plaintiff was never in possession of the Suit property.

33. The first such document was the Report of the Local Commissioner Ex.DW1/P1 dated 30.09.1999 who had observed that since it was a vacant plot; it was not possible to state who was in possession. However, it was noted in the Report of the Local Commissioner that the walls of the two sides were of the adjoining plots while the wall on the other two (opposite) sides was recently constructed. Also, the Local Commissioner noted that the



name of the Plaintiff was printed on the Iron Gate indicating that he was in possession.

34. *The first thing* which emerges from the Report of the Local Commissioner is that he was unable to state who was in possession as the suit property was an open plot. The second aspect which emerges is that there were recently constructed two walls.

35. In this context, reference was made to the Complaint dated 27.08.1999 Ex.PW1/6 made by the Plaintiff/Respondent to ACP complaining that the Defendant was getting the mason work (*chenai*) on the temporary wall on the Plot of the Plaintiff, which clearly indicated that the Plaintiff was not in possession and it was the Defendant/Appellant who was getting the boundary walls made. When this Complaint is read along with the Report of the Local Commissioner Ex.DW1/D1, it is established that there were recent boundary walls constructed thereby pointing that it was the Defendant/Appellant who was in possession of the Suit plot.

36. As per the Plaintiff's witnesses, the boundary walls were constructed in the early 1990s, whereas the Report of the Local Commissioner reflected that the boundary walls had been constructed recently, which establishes that on the date of filing of the Suit it was the Defendant who was in possession of the property.

37. A Reference was also made to the certified copies of the cross-examination of the Plaintiff in the Criminal Case filed by him against the Defendant/Appellant pertaining to the Suit Plot, wherein he had deposed that Defendant No.1/Appellant had removed the Plaintiff's walls and constructed his own wall and was in illegal possession of the Plot in question.



38. The Civil Judge thus, on the basis of the evidence, confined itself only to ascertaining the possession and not the title documents to conclude that the Plaintiff was not in possession of the Plot. Consequently, the relief of Permanent Injunction for restraining the Defendants from dispossessing the Plaintiff was rightly denied.

39. The Supreme Court in the case of Anathula Sudhakar (supra) had held that the Plaintiff, who is not in possession of the Suit property, is not entitled to an Injunction without first claiming the possession of the same.

40. Likewise, in M. Kallapa Setty vs. M.V. Lakshminarayana Rao AIR 1972 SC 2209, it was held that the Plaintiff, who is in possession of the Suit property, can resist its interference by the Defendant who has no better title than himself. The learned Civil Judge, therefore, concluded on the basis of overwhelming evidence led by the parties, that it was established that the Plaintiff was not in possession of the Suit property and thus, was not entitled to Injunction.

41. The learned ASCJ in the First Appeal fell in error in discussing in detail the *documents of title of the Plaintiff as well as of the Defendant* to hold that the Defendant was not able to prove his possession to the suit plot. It was further held that on the preponderance of probabilities, the Plaintiff was shown to be in possession of the property and the Suit for Permanent Injunction was decreed in favor of the Respondent/Plaintiff.

42. The learned ASCJ considered the validity of the Title documents executed in favor of the Plaintiff and held them to be of greater evidentiary value than those of the Defendant and thereby, held that the Plaintiff was shown to be in possession and consequently injuncted the Appellant/Defendant from disturbing the possession of the property.



43. However, the learned ASCJ fell in error in determining the Possession on the basis of Title documents, when in fact there was overwhelming evidence as discussed by the learned Civil Judge to establish that the Plaintiff was not in possession of the Suit plot, at the time when the Suit for Injunction was filed.

44. Before concluding, it is pertinent to emphasize that a Suit for Permanent Injunction is only based on preponderance of probability of the possession of the Plaintiff and not on the Title documents. In the case of Anathula Sudhakar (supra), it was held that where there are complex questions of the Title of the parties to the Suit which need determination, then such complex questions of Title must not be considered in the simpliciter case of Permanent Injunction and that the Plaintiff must file a Declaration for claiming an Injunction.

45. In the recent judgment of the Apex Court in T.V. Krishna Reddy vs. M. Mallappa and Anr. Civil Appeal No.5577/2021 in SLP (C) No.10621/2020 it was held that the question whether a simpliciter Suit for Permanent Injunction without Declaration of title was maintainable arose. Reference was made to Anathula Sudhakar (supra) to hold that when the Plaintiff's title is under a cloud and he does not have Possession, a Suit for Declaration and Possession with or without a consequential injunction, is the appropriate remedy. If the Plaintiff is out of Possession, he has to sue for Possession with consequential Injunction. It is only when there is mere threat of interference with the Plaintiff's lawful possession that a Suit for Permanent Injunction simpliciter is maintainable. The Title of the parties if not directly and substantially an issue, then the Suit for Injunction is maintainable.



46. Apex Court in T.V. Krishna Reddy (supra) observed that the prayer for Injunction has to be decided solely with reference to the finding of Possession. However, in cases where *de jure possession* has to be established on the basis of title of the property as in the case of vacant site, the issue of title may directly and substantially arise for consideration which is not possible to decide in a simpliciter Suit for Injunction. It was further noted that where there are necessary pleadings and the issue is framed on which the parties have to lead evidence and the issue involved is simple and straightforward, the Court may decide the issue regarding title even in a Suit for Injunction, but it is an exception to the normal rule that the title shall not be decided in a Suit for Injunction. But where the Title and Possession are clear, then simpliciter Injunction Suit is maintainable, as it would not be in the interest of justice to drive such parties to a costlier and more cumbersome remedy of a Suit for Declaration, merely because some meddler vexatiously or wrongfully makes a claim or tries to encroach upon his property.

47. In the present case as well, while there is a complex question involved in respect of the better title of the parties, the Suit for Injunction from disturbing the possession of the Plaintiff/Respondent had been decided by the learned Civil Judge purely on the basis of evidence led by the parties to conclude that the Plaintiff was not in possession of the property, without going into the documents pertaining to rival title of the parties.

Conclusion:

48. In view of the aforesaid discussions, it emerges that the learned Civil Judge had rightly denied the relief of Permanent Injunction to the Plaintiff.



The learned ASCJ fell in error while deciding the RFA, in delving into the issue of title rather than the possession.

49. The impugned Judgment dated 18.08.2025 in RFA is hereby, set aside and the Judgment of the learned Civil Judge dated 01.10.2012 is hereby, restored.

50. The Appeal is accordingly allowed and the Suit of the Respondent/Plaintiff for Injunction is hereby dismissed.

51. The pending Application(s) are disposed of accordingly.

NEENA BANSAL KRISHNA, J.

JANUARY 12, 2026

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