2026:AHC:207270

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 2368 of 2026

Manoj Kumar Yadav And 2 Others

.....Appellant(s)

Versus

Smt. Vandana Dixit And Another

.....Respondent(s)

Counsel for Appellant(s)	:	Sr. Advocate, Vinay Kumar Rai, Vishakha Pande
Counsel for Respondent(s)	:	Arvind Srivastava

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Sri Rakesh Pande, Senior Advocate assisted by Ms. Vishakha Pande, learned counsel for the appellant and Sri Arvind Kumar Shrivastava, Senior Advocate assisted by Sri Ashok Kumar Dubey, learned counsel for the respondent.

2. By means of this appeal, the appellant has challenged the order dated 04.07.2026 passed by the learned Civil Judge (Senior Division), Varanasi, in Original Suit No. 573 of 2026, *Vandana Dixit and another Vs. Manoj Kumar Yadav and 2 others*.

3. By means of the said order, the learned Trial Court has granted a temporary injunction in favour of the respondent/plaintiff, restraining the appellant from interfering with the possession over land bearing No. 385, situated in District Varanasi.

4. Learned counsel for the appellant submitted that the learned Trial Court, without properly applying its mind and without considering the existence of a prima facie case, the balance of convenience and the likelihood of irreparable loss in favour of the respondent/plaintiff, granted a temporary injunction in his favour, thereby depriving the appellant of his title and possession over the disputed land bearing No. 385. He submitted that although the respondent/plaintiff claims to be the owner of a portion of Plot No. 385, he has managed to obtain an injunction even in respect of portions of Plot Nos. 387/3 and 388 belonging to the appellant.

5. It was further submitted that the land in question, which was earlier

owned by the appellant and in respect of which his title was acquired by the Varanasi Development Authority in the year 1993, could not have been validly transferred by the seller, namely, Ramesh, as he had no title to convey in favour of the respondent/plaintiff. It was submitted that the aforesaid facts, as well as the material placed on record in support thereof, were ignored by the learned Trial Court. Therefore, the order passed by the learned Trial Court in favour of the respondent/plaintiff, without considering the settled principles governing the grant of temporary injunction, is liable to be set aside.

6. Learned counsel for the respondent/plaintiff, on the other hand, submitted that the entire case set up by the appellant pertains to Plot Nos. 387/1, 387/3 and 388. It was submitted that the respondent/plaintiff has raised no dispute in respect of the aforesaid plots claimed by the appellant. The respondent/plaintiff has sought injunction only in respect of Plot No. 385. The learned Trial Court, after perusing the material available on record, has granted injunction in favour of the respondent/plaintiff. Therefore, the impugned order does not suffer from any perversity or illegality and the present appeal, being devoid of merit, is liable to be dismissed.

7. Heard learned counsel for the parties and perused the material available on record, the findings recorded by the learned Trial Court and the pleadings filed by the parties before the learned Trial Court.

8. It is evident that the case set up by the respondent/plaintiff and the property in dispute pertain to Plot No. 385. On the other hand, learned counsel for the appellant has primarily contended that, in the garb of Plot No. 385, the respondent/plaintiff has obtained an injunction even in respect of certain portions of Plot Nos. 387/1, 387/3 and 388 belonging to the appellant.

9. However, the findings recorded by the learned Trial Court reveal that, pursuant to the direction issued by this Court, demarcation was carried out by the concerned Sub-Divisional Magistrate, Sadar, Varanasi, on 27.07.2023, wherein the disputed land bearing No. 385 was duly measured and demarcated. The said report specifically records that the disputed land stood recorded in the name of Awadhesh, from whom the respondent/plaintiff claims to have derived his title. The report not only mentions the recorded title holder of the land but also specifically

demarcates its boundaries. These facts were duly examined and considered by the learned Trial Court while granting the temporary injunction in favour of the respondent/plaintiff.

10. It is settled law that, while considering an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, the Court is not required to conclusively adjudicate upon the merits of the case or finally determine disputed questions of title or other disputed facts relating to the property. If, upon consideration of the material available on record, the Court is satisfied that the plaintiff has established a prima facie case and that the other requirements for grant of temporary injunction are fulfilled, it may grant appropriate interim protection.

11. In the present case, this Court is of the view that the learned Trial Court has rightly considered the case of the respondent/plaintiff after examining the material available on record, from which his prima facie title and possession over the disputed property are made out. Therefore, this Court does not find any ground to interfere with the findings recorded by the learned Trial Court.

12. Accordingly, the appeal, being devoid of merit, is dismissed. The impugned order dated 4.7.2026 passed by the learned Trial Court is hereby affirmed.

October 5, 2026
Mukesh

(Anil Kumar-X,J.)

Digitally signed by :-
MUKESH SRIVASTAVA
High Court of Judicature at Allahabad