2026:AHC:227190

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 3131 of 2026

Smt Santosh Devi

.....Appellant(s)

Versus

Kapil Dev And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Amit Kumar, Neetu Singh, Sachin Kumar
Counsel for Respondent(s)	:	Shivam Mishra

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Learned counsel for both the parties are present.

2. This appeal is directed against the order dated 07.10.2026 passed by the learned Civil Judge (Senior Division), Ghaziabad in Original Suit No. 143 of 2025 (Kapil Dev Vs. Smt. Santosh Devi and others), whereby an application filed by the respondent-plaintiff seeking temporary injunction has been allowed by the learned trial court.

3. For the sake of convenience, the parties hereinafter shall be referred to their nomenclature as assigned in the plaint. The appellant at present is the defendant whereas the contesting respondent is the plaintiff in the aforesaid suit.

4. Brief stated, the respondent-plaintiff has instituted a suit seeking injunction in respect of 100 square yard of land being part of Khasra No. 349 on the basis of a registered sale deed executed in his favour on 08.01.2025. The learned trial court heard both the parties and granted temporary injunction in favour of the respondent-plaintiff on 7.10.2026. Aggrieved by the said order dated 07.10.2026 passed by the trial court granting temporary injunction in favour of the plaintiff, the defendant/appellant has preferred this present appeal.

5. Learned counsel for the appellant/defendant submitted that the trial court without considering the possession of the defendant over the disputed land, has granted injunction in favour of the plaintiff. The Amin report, which is on record, clearly indicates that a house is existing on

Khasra No. 349 and possession of the appellant-defendant is upon the said house. It was further submitted that the electricity bill and other documents manifesting settled possession of the defendant over the disputed land by constructing a house was very much clear from the documents submitted before the trial court. Therefore, the trial court committed gross error in granting temporary injunction in favour of the plaintiff.

6. Per contra, learned counsel for the respondent / plaintiff submitted that he has purchased the land from its true owner through a registered sale deed dated 08.01.2025 and the defendants were interfering in the peaceful possession of the disputed land.

7. Heard learned counsel for the parties and perused the findings recorded by the trial court as well as the documents relied upon by the parties.

8. It is admitted case that the appellant-defendant is neither owner of the property nor can she claim possession of the disputed house because whoever may be its owner has executed only a power of attorney in her favour. The said power of attorney nowhere mentions that the possession of the disputed house was delivered to the appellant-defendant. The Amin report was also perused by this Court which mentions that a dilapidated house exists on the disputed plot and the appellant-defendant claims that the said house is of her husband.

9. It is also to mention that the disputed Khasra No. 349 is a large tract of holding and the plaintiff is not the sole owner even though he has purchased the land through a registered sale deed from its owner. However, the status of the defendant is much different as she claims her possession on the basis of the power of attorney executed in her favour by her husband by its allegedly true owner. Hence, the appellant-defendant cannot raise any grievance even if any temporary injunction has been granted in favour of the respondent / plaintiff. A power of attorney cannot give any power in excess of what it has delegated upon its holder. The said power of attorney nowhere mentions delivery of possession in favour of the defendant.

10. Therefore, this Court does not find any justifiable ground to interfere

in the order of the trial court granting temporary injunction in favour of the respondent-plaintiff.

11. In view of the aforesaid, the appeal is, accordingly, **dismissed**. The impugned order dated 7.10.2026 passed by the trail court is, therefore, upheld.

(Anil Kumar-X,J.)

November 2, 2026
SK

Digitally signed by :-
SUSHEEL KUMAR
High Court of Judicature at Allahabad