



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20th May, 2025

+ CS(OS) 339/2022 & I.A. 9113/2022
MATA AMRITANANDMAYI MATH THROUGH AUTHORIZED
REPRESENTATIVE OM PRAKASH AGED ABOUT 53 YEARS
AMRITAPURI, P.O. KOLLAM, KERALAPlaintiff

Through:

versus

ANIL KUMAR JAIN & ORS.Defendants

Through: Ms. Pinky Anand, Sr. Adv., Mr. Om
Prakash, Adv., Mr. Ashok Malik,
Adv., Mr. Chandresh Pratap, Adv.,
Ms. Swati Mishra, Ms. Nayoleeka
Purty, Mr. Samrat Pasriccha, Adv. for
D-1 to 5.

Mr. Charan S. Verma, Mr. Ramnesh
Verma & Mr. Chiranjeev Singh,
Advocates for D-2 and D-3.

+ CS(OS) 340/2022 & I.A. 9117/2022

ANIL KUMAR JAINPlaintiff

Through: Mr. Ankur Jain, Advocate

versus

MATA AMRITANANDAMAYI MATH & ORS.

.....Defendants

Through: Ms. Pinky Anand, Sr. Adv., Mr. Om
Prakash, Adv., Mr. Ashok Malik,
Adv., Mr. Chandresh Pratap, Adv.,
Ms. Swati Mishra, Ms. Nayoleeka
Purty, Mr. Samrat Pasriccha, Adv. for
D-1 to 5.

+ CS(OS) 793/2022 & I.A. 21290/2022

ANIL KUMAR JAINPlaintiff

Through: Mr. Ankur Jain, Advocate

versus

MATA AMRITANANDMAYI MATH & ANR.

.....Defendants



Through: Ms. Pinky Anand, Sr. Adv., Mr. Om Prakash, Adv., Mr. Ashok Malik, Adv., Mr. Chandresh Pratap, Adv., Ms. Swati Mishra, Ms. Nayoleeka Purty, Mr. Samrat Pasriccha, Adv. for D-1 to 5.

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

I.A. 9117/2022 in CS(OS) 340/2022

1. This application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 ('CPC') has been filed by the plaintiff seeking interim injunction for restraining defendant nos. 1 to 4 from entering into the land admeasuring 504 sq. yards falling in Mustatil 29, Killa No. 17/2/2, situated in Village Mehrauli, Vasant Kunj, New Delhi ['suit land'] and making any further construction or destroying any part of the suit land including but not limited to the wall of the suit land, and alienating, encumbering, transferring or disturbing the status of the suit land.

2. The applicant/plaintiff has further sought an order for bringing down the illegal wall constructed by defendant nos. 1 to 4 to the extent of the same having been illegally constructed on the suit land, as the same has completely blocked the plaintiff's ingress and egress to the suit land.

3. The applicant/plaintiff has further sought an order thereby granting the entry/access to the suit land to the plaintiff.

Facts

4. The facts as stated in the plaint as well as in the captioned application, which are relevant for the adjudication of the present application are stated



as under: -

5. The plaintiff claims ownership of the land admeasuring 504 sq. yards falling in Mustatil 29, Killa No. 17/2/2, situated in Village Mehrauli, New Delhi [Khasra No. 17/2/2']. It is stated that the plaintiff along with one Mr. Mahesh Kaushik i.e., defendant no. 5 herein purchased the land admeasuring 1 Bigha (1008 sq. yards), Mustatil 29, Khasra No. 17/2/2 situated in Village Mehrauli, New Delhi ['the land'] vide a registered sale deed dated 19.01.1998 executed by one Mrs. Gayatri Devi in their favour.

The land was bought by the plaintiff jointly with Mr. Mahesh Kaushik i.e., defendant no. 5 herein and was thereafter mutually partitioned between them in two (2) equal shares of 504 sq. yards with each parcel of the land having direct front access from the internal road known as Mata Amritanandamayi Marg ['the Mata Marg']. The plaintiff claims to be the absolute owner and in exclusive possession of its share in 504 sq. yds. falling in Khasra No. 17/2/2 i.e., the suit land.

5.1. It is stated in the plaint that the present suit has been filed seeking a decree of possession of the 'front portion' [being 150 sq. yards approx.] of the suit land, which has been encroached by defendant nos. 1 to 4. During the pendency of these proceedings the area in dispute was measured and the plaintiff submitted that the actual area encroached upon by defendant nos. 1 to 4 is 92 sq. yards ['area in dispute']. In this regard, the plaintiff filed¹ a fresh site plan prepared by a draughtman duly identifying the disputed area admeasuring 92 sq. yards.

5.2. It is stated that the plaintiff herein, who is an Overseas Citizen of India ('OCI') having citizenship of United States of America is an absolute

¹ Filed under index dated 03.10.2024 [e-diary no. 43219939/2024]



co-owner and is in possession of the suit land. He states that the plaintiff purchased the suit land vide a registered sale deed dated 19.01.1998 and thus, has been in the settled possession of the suit land since 1998.

5.3. It is stated that Mata Amritanandamayi Math ('MAM') i.e., defendant no. 1 herein is an international charitable trust having one of its branch in Vasant Kunj, New Delhi behind the suit land. It is stated that defendant no. 2 is the trustee of defendant no. 1 trust, whereas, defendant nos. 3 and 4 are members/associates of defendant no. 1.

5.4. It is stated that defendant no. 5 is a performa defendant and no relief has been claimed against him.

5.5. It is stated that defendant no. 6 is Shanti Kunj Resident Welfare Association ('RWA'), which has been formed with an objective to seek regularization of this colony – known as Shanti Kunj. It is stated that the suit land is located in Shanti Kunj Colony. It is stated that the RWA has submitted a layout plan along with list of its plot owners to the Urban Development Department of GNCTD, wherein all the plots have been identified. It is stated that the plaintiff's plot falls in D-Block and has been allotted private number D-1 in this layout plan submitted to the Government. The certificate dated 12.04.2022, the statement of Secretary of the RWA dated 25.04.2022, the extract of the layout plan submitted by RWA to GNCTD vide letter dated 28.12.2010 has been relied upon to show the location of the plaintiff's plot vis-à-vis the internal road/the Mata Marg of D-Block. It is stated that all the plots in Shanti Kunj have been allotted private numbers in the said layout plan and residents and owners use the said private numbers as their addresses and for identification. This layout plan has been duly uploaded on the official website of Urban Development



Department of GNCTD.

5.6. It is stated that after the purchase of the suit land in the year 1998, the plaintiff had constructed a room and a boundary wall with a gate, for passage over his area on the suit land and since then no change has been made by the plaintiff in the suit land.

5.7. It is stated that on or about 08.04.2022 and 09.04.2022, defendant nos. 3 and 4 along with 6-7 accomplices illegally trespassed and broke open the lock of the gate installed at the suit land. It is stated that the said persons thereafter, demolished the wall on which the gate was installed, removed the gate and they re-constructed the new wall. It is stated that defendant nos. 3 and 4 have then illegally constructed a new boundary wall thereby unlawfully merging an area admeasuring 92 sq. yards approx. [i.e. area in dispute] of the suit land with the adjoining property of defendant no. 1.

5.8. It is stated that in the layout plan submitted by the RWA to GNCTD the plaintiff's plot has been given the number D-1 and defendant no. 1's plot has been given the number D-3 and D-23. The illegal merging by defendant no. 1 is with respect to plot no. D-23 with portion of plot no. D-1.

5.9. It is stated that by this illegal action, the defendant nos. 1 to 4 have blocked the entry of plaintiff's plot no. D-1 from the internal road/ the Mata Marg. Since this was the only access to plot no. D-1, the said plot has become land-locked and the area of the suit land stands reduced from 504 sq. yards. to 462 sq. yards.

5.10. It is stated that in these circumstances, the plaintiff first approached the police and has also been constrained to file the present suit seeking possession of the land measuring 92 sq. yards of the suit land and a decree of permanent injunction to restrain defendant nos. 1 to 4 from entering into



the suit land and from creating any third-party rights in the suit land.

5.11. It is stated that defendant no. 1 has also filed a Civil Suit bearing no. CS SCJ 559/2022 titled as **Mata Amritanandmayi Math v. Anil Kumar Jain & Ors.** [pending adjudication before Patiala House Courts, New Delhi] seeking permanent injunction thereby restraining the plaintiff herein from demolishing the wall constructed on the suit land and from dispossessing defendant no. 1 herein [plaintiff therein] from the said suit land.

Submission on behalf of the plaintiff

6. Learned counsel for the plaintiff stated that vide Order dated 01.06.2022, the Court without going into the merits of the case, directed defendant no. 1 to provide access to the plaintiff to the suit land from the internal road/ the Mata Marg, as the plaintiff had prior to April, 2022 and the parties were directed to maintain status quo in respect of the suit land comprised in Khasra No. 17/2/2.

6.1. He submitted that vide said Order, the Court had also directed the concerned Sub-Divisional Magistrate ('SDM') to carry out the demarcation of the subject land and to identify the land, which falls under Khasra No. 17/2/2 and Mr. Kamal Kumar, Advocate was appointed as the Local Commissioner ('LC') to inspect the suit land.

6.2. He stated that even though the Local Commissioner had submitted its report dated 21.06.2022, wherein the point of access, from where ingress and egress to the suit land can be granted to the plaintiff, were clearly pointed out, defendant nos. 1 to 4 did not grant access to the suit land to the plaintiff.

Thus, the Court vide Order dated 02.08.2022 directed the Local Commissioner to break the boundary wall and provide access to the



plaintiff. However, on 06.08.2022, upon an undertaking given by the counsel that access will be provided to the plaintiff within 10 days, the Court directed the Local Commissioner not to proceed with the commission in terms of Order dated 02.08.2022.

6.3. He stated that it is an admitted position that the plaintiff purchased the suit land in the year 1998 by way of a sale deed dated 19.01.1998 and thereafter, the plaintiff had the land mutated in its favour in revenue records. He states that all these records shows that the plaintiff is the owner and in possession of the suit land with bounded wall and gate.

6.4. He stated that in the year 2010, RWA of Shanti Kunj colony had submitted a Layout Plan of the colony to Urban Development Department of GNCTD for regularization of the colony. He states that the said Layout plan depicts the plot of the plaintiff as D-1. He states that defendant no. 1 had a school already running in this colony in the year 2010 on plot no. D-3. He stated that therefore defendant no. 1 has been aware about the location and the access of plaintiff's plot no. D-1 to the internal road/ the Mata Marg.

6.5. He stated that defendant no. 1 subsequently in the year 2021 purchased adjoining plot no. D-23 and it is thereafter the boundary wall separating plot no. D-23 and D-1 has been illegally demolished by defendant nos. 1 to 4 to encroach upon plot no. D-1. He states that the plot numbers allotted in the Layout Plan are used by all the residents including defendant no. 1. He has placed on record photographs of the plots with their nameplates during the hearing dated 26.11.2024 to substantiates this plea.

6.6. He stated that defendant no. 1 had purchased the adjoining land in Khasra No. 17/2/1 on 08.03.2021 and on 08.04.2022/09.04.2022, the Plaintiff came to know that defendant nos. 3 and 4 are breaking the wall of



plaintiff's land. Subsequently, the plaintiff filed a police complaint for the illegal acts of the defendants nos. 3 and 4; and the investigation was carried out by ACP (Vigilance Cell).

6.7. He stated that police vide its report dated 22.06.2022 concluded that the plaintiff is in possession of the suit land since 1998 and after demolishing the existing boundary wall as well as removing the iron gate of the said plot, illegal construction of a boundary wall of the plot in question has been done by one Mr. Ravindra Bhadana (Contractor) and one Mr. Anoop Chavan (Liasoner). He stated that the ACP along with its report has also filed AKS Shazra map, statement of the President of the RWA, which substantiates the case of the plaintiff.

6.8. He stated that the demarcation report dated 01.08.2022 carried out by the SDM cannot be relied upon as the same is not prepared as per extant law. He states that the Mehrauli Village where the subject land is situated, has already been urbanised by the Government vide notification dated 13.06.1962.

6.9. He stated that defendant nos. 1 to 4 have trespassed into plaintiff's land, which is also evident from the photographs placed on record.

6.10. He states that the first demarcation map dated 14.07.2021 prepared by the Patwari on the demarcation application filed by the defendant on 24.06.2021, shows that the existing boundary wall did not cover the area of 92 sq. yards i.e., the area in dispute. The said area has been shown in red colour in this map and fell outside the boundary walls existing as on 14.07.2021. He states that defendant nos. 1 to 4 altered the boundary wall and in the process illegally demolished the plaintiff's boundary wall and encroached upon his plot no. D-1.



6.11. He stated that defendant no. 1 herein in para 6 of the plaint in CS SCJ 559/2022, pending before the District Court has mentioned that the adjacent land [i.e., land bearing number Mustatil 29 Khasra No. 17/1 and 17/2/1] was covered by four side boundary walls, which is duly mentioned in revenue record. And in para 6 of the said plaint, defendant no. 1 has mentioned that the construction of the wall was very old and hence, defendant no. 1 herein reconstructed/renovated the wall.

He stated that the newly constructed boundary wall on the adjacent land ('plot no. D-23') is in Pentagon shape, meaning thereby that defendant no. 1 has wrongly constructed the new wall on the Suit Land by illegally encroaching on the 92 sq. yards of the front portion of the suit land, thereby restricting plaintiff's right of ingress and egress.

6.12. He stated that in view of the aforesaid facts and circumstances, this Court be pleased to pass an order to make the interim order dated 01.06.2022 absolute and grant the ad-interim injunction in favour of the plaintiff and against the defendant nos. 1 to 4.

Submission on behalf of defendant no. 1 to 4

7. Ms. Pinky Anand, learned senior counsel on behalf of defendant nos. 1 to 4 addressed submissions.

7.1. She stated that defendant no. 1 is the absolute owner as well as in physical possession of the land measuring 01 Bigha (1008 sq. yards) forming part of Khasra No. 29/17/2/2, situated in Village – Mehrauli (now Tehsil Mehrauli), Vasant Kunj, New Delhi.

7.2. She stated that defendant no. 1 purchased (a) 600 sq. yards from Nova Agency on 14.11.1994 by virtue of ATS dated 14.11.1994 and (b) 400 sq.



yards from Zohra Fatima in the year 1997².

7.3. She stated that the vendor, Mrs. Gayatri Devi had sold 200 sq. yards to Ms. Zohra Fatima and 200 sq. yards to Mr. M.B. Pandey from Khasra no. 17/2/2 in the year 1994 itself. She stated that Mr. M.B. Pandey sold his 200 sq. yards to Ms. Zohra Fatima in the year 1996. She stated that in this manner Ms. Zohra Fatima owned 400 sq. yards in Khasra no. 17/2/2 devolving from Mrs. Gayatri Devi. And, these 400 sq. yards has been sold to defendant no. 1 in the year 1997.

7.4. She stated that originally Mrs. Gayatri Devi wife of Mr. Mahesh Kaushik (i.e., proforma defendant no. 5) was the owner in possession of land measuring 01 Bigha (20 Biswa) forming part of Khasra No. 29/17/2/2.

7.5. She stated that however, prior to the execution of the sale deed dated 19.01.1998 of 1008 Sq. yards situated in Khasra No. 29/17/2/2 in favour of the plaintiff and defendant no. 5; the vendor Mrs. Gayatri Devi had already sold 200 sq. yards to Ms. Zohra Fatima and 200 sq. yards to Mr. M B Pande from Khasra no. 17/2/2, in the year 1994 itself. And, then Mr. M B Pandey had sold his 200 sq. yards to Ms. Zohra Fatima in 1996.

7.6. She stated that Mrs. Gayatri Devi was left with 608 sq. yards in Khasra no. 17/2/2 in 1998. She stated that therefore Mrs. Gayatri Devi could not have sold 1008 sq. yards to the plaintiff and defendant no. 5 in the year 1998.

7.7. She stated that since the plaintiff started interfering in the peaceful possession of defendant no. 1 over the suit land, defendant no. 1 filed the Civil suit bearing no. CS SCJ No. 559/2022 before the Patiala House Courts, New Delhi on 07.05.2022.

² By way of GPA, SPA, Affidavit, Possession letter, ATS and Will, all dated 27.02.1997.



7.8. She stated that defendant no. 1 had also filed CS(OS) 339/2022 [pending adjudication before this Court] seeking a declaration that the registered sale deed dated 19.01.1998 executed in favour of the plaintiff and performa defendant no. 5 by Mrs. Gayatri Devi *qua* the suit land is null and void.

7.9. She stated that in terms of the interim order dated 01.06.2022, this Court had directed the concerned SDM to carry out demarcation and identification of Khasra No. 17/2/2 situated in Village Mehrauli, Vasant Kunj, New Delhi.

7.10. She stated that the concerned SDM prepared a report dated 01.08.2022 and demarcation map dated 27.07.2022 in presence of the parties, wherein Khasra No. 17/2/2 has been identified in green colour and Khasra nos. 17/2/1 and 17/1 have been identified in orange colour. The said demarcation map shows plaintiff's land as 'plot no. 1' and land of defendant no. 5 as 'other building' falling in Khasra no. 17/2/2.

7.11. She stated that the Khasra No. 17/2/1 is on the northern side of the Khasra No. 17/2/2. The boundary wall partitioning the land of the plaintiff and defendant no. 1 is shown in blue colour, which falls in Khasra no. 17/2/1. She stated that land in Khasra no. 17/2/1 exclusively belongs to defendant no. 1 and the present suit only pertains to Khasra No. 17/2/2. The land portion between the blue boundary wall and green *kila* line falls in Khasra No. 17/2/1, which is in the unauthorised possession of the plaintiff.

7.12. She stated that the plaintiff neither has any right, title or interest on any portion outside Khasra No. 17/2/2 and in portion of Khasra No. 17/2/1 nor has claimed any. She stated that defendant no. 1 is the exclusive owner in possession of Khasra no. 17/2/1 in all respects even on the portion falling



outside boundary wall. Khasra no. 17/1 also belongs to defendant no. 1 which falls in the internal road/ the Mata Marg.

7.13. She stated that in view of the factual matrix which emerged from the demarcation report and the demarcation map, the submission that the subject suit property has been encroached and hindered by defendant nos. 1 to 4 herein is proved completely false, frivolous, and baseless. It is submitted that the only motive of the plaintiff is to harass and grab the land of defendant no. 1.

7.14. She stated that the AKS Shajra/revenue map shows Khasra No. 17/2/1 is on the northern side of Khasra No. 17/2/2. Khasra no. 17/2/2 has its independent access to the internal road/ the Mata Marg on its eastern side.

7.15. She stated that as per the case of the plaintiff, the disputed portion falls on the eastern side of his plot, thus the allegation of encroachment by defendant no. 1 by merging the disputed portion of 92 sq. yards of the suit property falling in Khasra No. 29/17/2/2 is a concocted story of the plaintiff.

7.16. She stated that the plaintiff's version of plot nos. D-1, D-2, D-3 and D-23 with reference to RWA map cannot be relied as it doesn't show dimension, measurements or areas of plots in layout hence, it may be presumed as a mere drawing. This is because, neither, the Layout Plan of the society having D-1, D-2, nor, the registered sale deed dated 19.01.1998 nor, the suit or any document thereof shows/clarifies any dimension whatsoever.

7.17. She stated that the plaintiff and defendant no. 5 are the joint owners of the land bought under the registered sale deed dated 19.01.1998 and as per the version of the plaintiff, they have direct front access to the internal road/ the Mata Marg. Therefore, the plaintiff cannot have any grievance against defendant no. 1.



7.18. She stated that since the plaintiff has not been able to make out any case of encroachment, therefore, as per the settled law the present applicant should be dismissed on merits.

Findings and Analysis

8. This Court has heard the counsel for the parties and perused the record.

- i. Plaintiff's settled possession over the suit land admeasuring 504 Sq. Yds. including the area in dispute [admeasuring 92 sq. yds.]**
- ii. Trespass by Defendant Nos. 1 to 4 into Plot No. D-1 in April 2022**

9. The dispute arising for consideration in this suit is an area of 92 sq. yards, which was in settled possession of the plaintiff herein since 1998 and has been encroached upon by defendant nos. 1 to 4 in April, 2022, immediately prior to filing of this suit. The plaintiff has filed a site plan of the suit land under the index dated 03.10.2024, wherein the encroached area is marked in red and the remaining area is marked in yellow. The site plan is as under: -

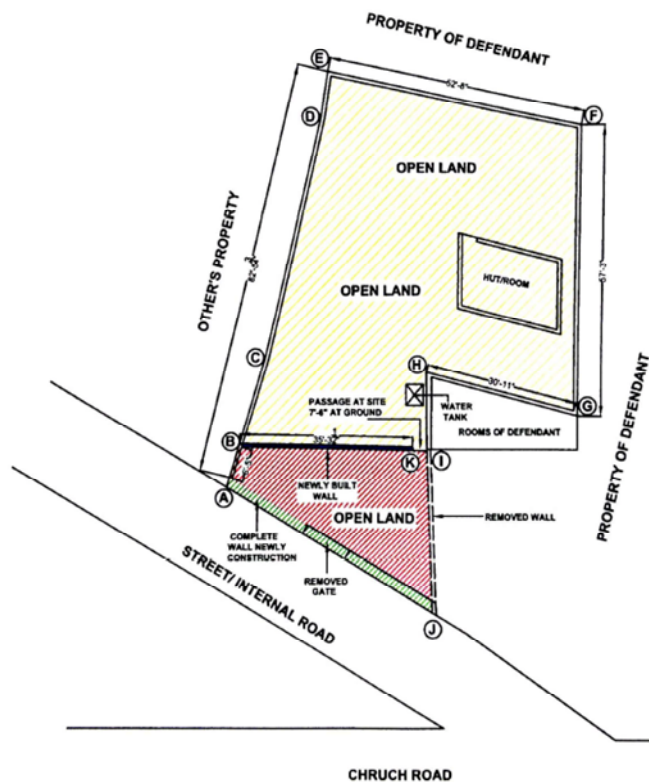


2025:DHC:4079



SITE PLAN OF SUIT PROPERTY, SITUATED AT SHANTI KUNJ, BLOCK D-3, VASANT KUNJ, DELHI.

- 1. LAND LOCKED AREA IN POSSESSION OF PLAINTIFF, SHOWN IN YELLOW FROM POINT "BCDEFGHI" "AREA:- 412.55 SQ.YDS APPROX"**
- 2. TRESSPASSED AREA BY DEFENDANT NO.1, SHOWN IN RED FROM POINT "ABKIJ" "AREA:- 92 SQ.YDS APPROX"**
- 3. NEWLY BUILT WALL BY DEFENDANT, SHOWN IN BLUE, FROM POINT "BKI"**
- 4. EARLIER BROKEN WALL AND REMOVED GATE WITH NEWLY CONSTRCTED WALL, SHOWN IN GREEN, FROM POINT "AJ"**
- 5. DOTTED LINE FROM POINT "I" TO POINT "J" REMOVED WALL FOR MERGING THE AREA IN DEFENDANT NO.1 PORTION**



Pranshu Verma
PRANSHU VERMA
DRAUGHTSMAN (CIVIL)
Ch. No. A-35, Gate No. No. 3, Amar
Nath Monga Block, Western Wing,
Tis Hazari Court, Delhi-110055
Mob. 9999140907, 9811139872

10. Before deciding this application, it would be relevant to refer to the judgment passed by the Supreme Court in **Rame Gowda v. M. Varadappa Naidu**³, wherein it was held as under: -

³ (2004) 1 SCC 769



“8. It is thus clear that so far as the Indian law is concerned, the person in peaceful possession is entitled to retain his possession and in order to protect such possession he may even use reasonable force to keep out a trespasser. A rightful owner who has been wrongfully dispossessed of land may retake possession if he can do so peacefully and without the use of unreasonable force. If the trespasser is in settled possession of the property belonging to the rightful owner, the rightful owner shall have to take recourse to law; he cannot take the law in his own hands and evict the trespasser or interfere with his possession. The law will come to the aid of a person in peaceful and settled possession by injunction even a rightful owner from using force or taking the law in his own hands, and also by restoring him in possession even from the rightful owner (of course subject to the law of limitation), if the latter has dispossessed the prior possessor by use of force. In the absence of proof of better title, possession or prior peaceful settled possession is itself evidence of title. Law presumes the possession to go with the title unless rebutted. The owner of any property may prevent even by using reasonable force a trespasser from an attempted trespass, when it is in the process of being committed, or is of a flimsy character, or recurring, intermittent, stray or casual in nature, or has just been committed, while the rightful owner did not have enough time to have recourse to law. In the last of the cases, the possession of the trespasser, just entered into would not be called as one acquiesced to by the true owner.”

(Emphasis supplied)

11. In fact, the Supreme Court in **Krishna Ram Mahale v. Shobha Venkat Rao**⁴ as well held that a person, who is in settled possession of a property, even on the assumption that he has no right to remain on the property, cannot be dispossessed by the owner of the property except by recourse of law. The relevant portion of the judgment reads as under: -

“8. Mr Tarkunde, learned counsel for Defendant 3, the appellant herein, rightly did not go into the appreciation of the evidence either by the trial court or the High Court or the factual conclusions drawn by them. It was, however, strongly urged by him that the period of licence had expired long back and the plaintiff was not entitled to the renewal of licence. It was submitted by him that in view of the licence

⁴ (1989) 4 SCC 131



having come to an end, the plaintiff had no right to remain in charge of the business or the premises where it was conducted and all that the plaintiff could ask for was damages for unlawful dispossession even on the footing of facts as found by the High Court. We find ourselves totally unable to accept the submission of Mr Tarkunde. It is a well-settled law in this country that where a person is in settled possession of property, even on the assumption that he had no right to remain on the property, he cannot be dispossessed by the owner of the property except by recourse to law. If any authority were needed for that proposition, we could refer to the decision of a Division Bench of this Court in *Lallu Yeshwant Singh v. Rao Jagdish Singh* [AIR 1968 SC 620: (1968) 2 SCR 203,208-210] . This Court in that judgment cited with approval the well-known passage from the leading Privy Council case of *Midnapur Zamindary Co. Ltd. v. Naresh Narayan Roy* [AIR 1924 PC 144: 51 IA 293, 299: 23 ALJ 76] where it has been observed (p. 208):

“In India persons are not permitted to take forcible possession; they must obtain such possession as they are entitled to through a court.”

(Emphasis supplied)

12. In the aforementioned legal position, this Court now proceeds to examine the facts in controversy.

13. The suit land/plot of the plaintiff and the adjoining land/plot of defendant no. 1 lies in an unauthorized colony known as Shanti Kunj colony having registration no. 83 as per GNCTD. Since this colony in the year 2010 to Urban Development Department of GNCTD had applied for regularization, it prepared a Layout Plan [through an Architect] of all the plots within the boundary of the colony. The Layout Plan firstly divided the colony into blocks and further assigned plot numbers to identify each plot. In this Layout Plan plaintiff's plot has been assigned plot no. D-1, defendant no. 1's adjoining plot has been assigned plot no. D-23 and defendant no. 5's plot has been assigned plot no. D-2. The said Layout Plan is available on the



official website of GNCTD⁵.

14. It is a matter of record that the plot numbers assigned to each plot in the Layout Plan are being used by the residents of this colony for identification of their respective plots. Defendant no. 1, in addition to plot no. D-23 owns plot no. D-3, where it has a branch which runs a school and as is apparent from the Court record it uses the said plot no. D-3 as its known address. In fact, since defendant no. 1 was a resident in the year 2010, defendant no. 1 is well aware about the submission of the aforesaid Layout Plan to GNCTD. Similarly, the plaintiff as well uses plot no. D-1 as its address.

15. Thus, for the sake of convenience and to bring clarity in the order, the reference to suit land/plot of the plaintiff will be 'plot no. D-1'; reference to plots of defendant no. 1 will be 'plot no. D-23' and 'plot no. D-3' respectively; and reference to the plot of defendant no. 5 will be 'plot no. D-2'.

16. The issue arising for consideration in I.A. Nos. 9117/2022, 12628/2022 and 15245/2022 is whether the plaintiff is entitled to restoration of the status quo of the suit land, as it existed immediately prior to April, 2022, when defendant nos. 1 to 4 unilaterally broke down the boundary wall partitioning the plot nos. D-1 and D-23, and constructed a new boundary wall, which has led to the only access of plaintiff's plot no. D-1 from the internal road/the Mata Marg, being cut off.

Defendant no. 1 broke down a part of the partitioning wall and constructed a fresh wall and cordoned off an area admeasuring 92 Sq. Yds., which forms part of plot no. D-1 and merged this area with plot no. D-23.

⁵ Government of National Capital Territory of Delhi



17. The plaintiff has placed on record the registered sale deed dated 19.01.1998 whereby he along with defendant no. 5 had acquired title in an area admeasuring 1008 sq. yards falling in Khasra no. 17/2/2 from the vendor, Ms. Gayatri Devi (who is also stated to be wife of defendant no. 5). The plaintiff and defendant no. 5 mutually partitioned the said land into two (2) halves and these two (2) halves are now numbered as plot nos. D-1 and D-2 respectively in the Layout Plan of this colony. Both these plots have independent and direct access to the internal road/the Mata Marg.

It has come on record that plaintiff in 1998 constructed a boundary wall for his plot along with a room for his caretaker and installed a gate on the opening of the plot facing internal road/Mata Marg.

18. Defendant no. 1 is a charitable trust, which has a branch located at plot no. D-3 and this fact is duly mentioned in the 2010 correspondence between defendant no. 6/RWA and GNCTD.

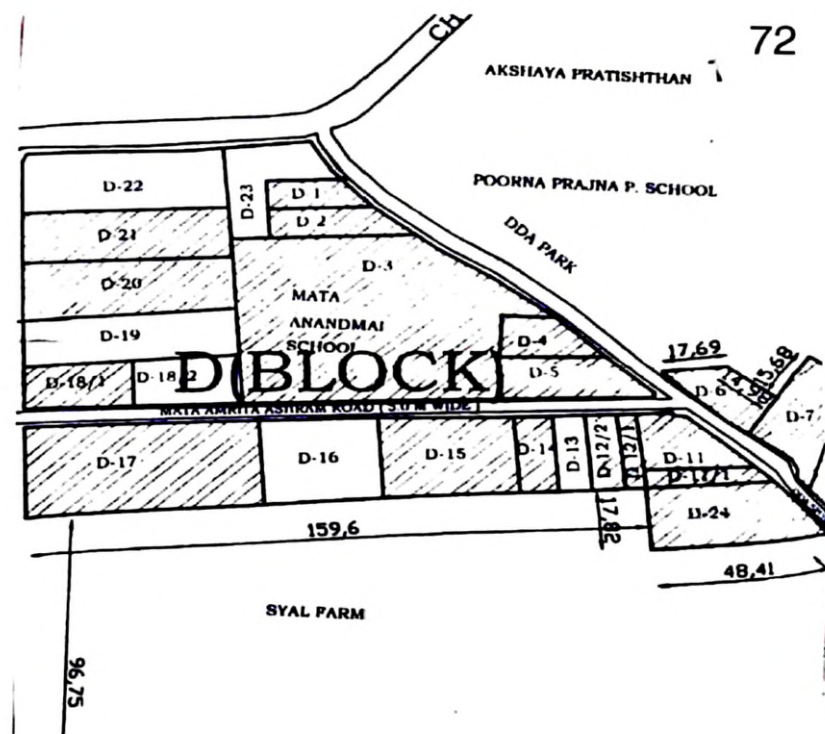
19. The existence of plot nos. D-1, D-2, D-3 and D-23 on the Layout Plan of the colony is therefore to the knowledge of the plaintiff, defendant nos. 1 and 5.

20. It appears from the record that on 08.03.2021, defendant no. 1 purchased plot no. D-23 from its owners. Plot no. D-23 abuts plot no. D-1 and infact shares a common boundary wall. It is apparent from the record that plot no. D-23 had a pre-existing boundary wall bounding the plot, as on 08.03.2021, when it was purchased by defendant no. 1. So also, plaintiff's plot no. D-1 had an existing boundary wall as on 08.03.2021 along with a room constructed for a caretaker. Thus, the partitioning wall between plot no. D-23 and plot no. D-1 was existing on the site when defendant no. 1 purchased plot no. D-23 from its owners.



21. Pertinently, though Shanti Kunj colony has a Layout Plan since 2010 which has been formally submitted to GNCTD where all plots have been assigned individual plot numbers, defendant no. 1's sale deeds dated 08.03.2021 pertaining to plot no. D-23, conspicuously neither refers to plot no. D-23 and further fails to give details of plots on its boundaries, especially east, west and south boundaries.

22. The relevant extract of the Layout Plan of Shanti Kunj Colony submitted to GNCTD, as applicable to the suit plots is as under: -



23. Section 21 of the Registration Act, 1908 ('Act of 1908') mandates that a non-testamentary document with respect to an immovable property cannot be accepted for registration, in case the description of such property for the purpose of identification of such property is not mentioned in the said document. Section 21 of the Act of 1908 reads as under: -

“21. **Description of property and maps or plans.** — (1) No non-



testamentary document relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(2) Houses in towns shall be described as situate on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.”

(Emphasis Supplied)

24. To this effect the Guidelines⁶ issued by the Department of Revenue, Government of NCT of Delhi vide circular dated 12.11.2014 provides that if an instrument pertains to an immovable property, the Sub-Registrar must ensure strict compliance that the said property is clearly identified within the instrument and the site plan is annexed to identify the property. The relevant paragraphs of the guidelines read as under: -

“(2) PRESENTATION OF DOCUMENT:

The Sub-Registrar shall ensure strict compliance of the parameters necessary for the presentation of the document viz.

...

(h) If the subject matter of the instrument is immovable property, such property has been properly identified in the instrument and the site plan is annexed to identify the property.

...

(8) EXTENT OF ENQUIRY AS REGARD TITLE:

(i) Under the Indian Registration Act, no power has been

⁶ Guidelines issued under Section 69 of Indian Registration Act for compliance by all Sub-Registrar Offices; available at <http://it.delhigovt.nic.in/writereaddata/Cir20185159.pdf>



conferred upon the registering authority to examine and enquire into the title of the property. The Sub-Registrar is not entitled to probe-in to the title as mentioned in the instrument in as much as it is for the parties to examine, ensure and verify the true character and title of the property as subject matter of the instrument. The Sub-Registrar is to ensure only that the executant or duly authorized person, admit the execution of the instrument and **if the subject matter of the instrument is immovable property, such property has been properly identified in the instrument and is necessary the site plan is appended or annexed separately to identify the immovable property.**”

(Emphasis Supplied)

25. However, a perusal of the four (4) sale deeds dated 08.03.2021 relied upon by defendant no. 1 *qua* purchase of plot no. D-23 falling in Khasra Nos. 17/1 and 17/2/1 shows that in the schedule of the land [mentioned in the sale deeds] no boundaries have been mentioned, whereas the layout plan of the Shanti Kunj colony clearly enabled marking of these boundaries. So also, no site plan of plot no. D-23 has been annexed with these sale deeds executed in favour of defendant no. 1.

Plaintiff's plot no. D-1 falls on the southern-eastern boundary of defendant no. 1's plot no. D-23. This is a material fact and if duly reflected in the sale deeds dated 08.03.2021, would have estopped the defendant no. 1 from interfering in the settled possession of the plaintiff in plot no. D-1.

The absence of the boundary details is a serious defect in the sale deeds of defendant no. 1 and they are in contravention of statutory provision of the Act of 1908.

26. The Layout Plan of Shanti Kunj Colony was submitted by Secretary, RWA/defendant No. 6 along with list of names of plot owners and size of plots, which duly reflected the details of plot nos. D-1, D-2, D-3 and D-23.



These documents have been set out in this judgment in subsequent paragraphs.

27. The significance of boundaries in transfer documents pertaining to immovable properties has been noted by Supreme Court in **Ramisetty Venkatanna and Another vs. Nasyam Jamal Saheb and Others**⁷.

28. The Layout Plan of Shanti Kunj Colony and all other documents submitted to GNCTD in year 2010 clearly reflected the settled possession of the plaintiff in plot no. D-1.

29. It is pertinent to note that when defendant nos. 1 to 4 unauthorizedly broke down the partition wall between plot no. D-1 and plot no. D-23 in April, 2022, the plaintiff had immediately filed a police complaint of trespass on 19.04.2022 with Police Station (P.S.) Vasant Vihar. The report of the ACP, Public Grievance, South-West District dated 22.06.2022 confirms that defendant nos. 1 to 4 unilaterally and illegally broke the boundary wall partitioning plaintiff's plot no. D-1 and defendant no. 1's plot no. D-23 in April, 2022 and unauthorizedly removed the gate, which existed on the boundary wall, giving access to the plaintiff into the plot no. D-1 from the internal road/ the Mata Marg.

The defendant nos. 1 to 4 after breaking the existing wall built a new wall and cut off the plaintiff's ingress egress to his plot from the internal road/ Mata Marg. It also ended up arrogating to itself part of plot no. D-1, which was in the settled possession of the plaintiff and wrongfully merged it with plot no. D-23.

The conclusion in the report of the ACP is reproduced as under: -

“CONCLUSION:

⁷ 2023 SCC OnLine 521 [Paragraph nos. 20 and 29]



After the detailed enquiry conducted into the matter it is concluded that as per local enquiry it was revealed that plot in question pertains to Dr. Anil Jain who have possession of plot since 1998. Dr. Anil Jain also produced copy of sale deed, Khatoni and mutation of plot and the same were got verified from concerned officials and found genuine. Illegal construction of boundary wall of the plot in question was done by Ravinder Bhadana (Contractor) and Anoop Chavan (Liaison person between the Contractor and Math) after demolishing the boundary wall and removing the Iron Gate of the plot of the complainant without completion of demarcation process. Only applicant was present when Kanoongo visited the site for demarcation. Thereafter, Tehsildar directed to get the demarcation done by TSM.

It is also pertinent to mention here that both Vinod Gupta (Vendor) and Mr. Rohit Jain (Mediator) told during enquiry that property sold by Vinod Gupta and his brothers to Math was having road at three sides and a vacant plot/land at remaining one side. They also told that some portion of land, out of total plot/land sold to Math was left outside the boundary wall towards roadside.

Enquiry was also conducted from Gayatri Kaushik (Vendor) and her husband Mahesh Kaushik in this regard who - stated that plot measuring 500 sq yards was sold to Dr Anil Jain and possession was also handed over. Thereafter, Dr Anil Jain constructed boundary wall and installed gate in front portion. Presently, there are roads on three sides of plot purchased by Math from Mr. Vinod Gupta and a vacant plot on remaining side which belongs to Dr. Anil Jain. However, alleged persons carried out construction on front portion of plot of Dr Anil Jain measuring Approx. 70 yards, leaving no passage to the remaining portion of plot of Dr. Anil Jain.

As the both parties are claiming their right on plot in questions and demarcation of the plot is still pending. Both the parties have approached to Hon'ble High Court of Delhi and the Hon'ble Court pleased to order in the matter of CS(OS) 339/2022 and CS(OS) 340/2022 & s I.A. 9119/2022 (u/s 149 CrPC) vide order dated 01.06.2022 that the SDM of the area concerned is directed to carry out demarcation of the subject land and identify the land which falls under Khasra No. 17/2/2. Till the next date of hearing, the parties are directed to maintain status quo in respect of the land comprised in Khasra No. 17/2/2. It is further ordered that a Local Commissioner has been appointed and he will visit the subject land and inspect the same. The report is awaited.

As per direction of Hon'ble High Court, demarcation of



subject property has been initiated on 17.06.2022 in presence of both the parties and the same is under process. The next date of hearing is fixed for 11.11.2022.”

(Emphasis Supplied)

30. So also, the Local Commissioner appointed by this Court on the basis of the inspection carried out on 07.06.2022 in his report dated 21.06.2022 has given its conclusion as follows: -

“8. As per my observations and as recorded in the photos and videos, it can be seen that:

a. A new wall has been constructed along with the internal Road thereby blocking the complete access to the subject land from the internal road;

...

b. Another internal wall has been constructed from a hut belonging to Defendant No. I to the adjacent building towards the north of the suit property thereby completely land locking the undisputed portion of the subject land;

c. Lot of construction material is still lying in the property of Defendant No. 1.

d. At the time of the commission, no construction was ongoing. However, on enquiring the representatives/ counsels of Defendant No. I whether the construction would be continued to which, he responded in affirmation.”

(Emphasis Supplied)

31. The Secretary, RWA of Shanti Kunj colony has also given a statement dated 25.04.2022⁸ confirming that defendant no. 1 has unlawfully trespassed into the plot no. D-1 of the plaintiff and has dispossessed the plaintiff by blocking his access to internal road/Mata Marg. The Secretary has also issued a statement dated 12.04.2022⁹ stating that the demarcation of plots in the colony has to be verified on the basis of the Layout Plan submitted by defendant no. 6/RWA to GNCTD and cannot be carried out through revenue

⁸ Document No. 10 filed by the plaintiff under index dated 30.05.2022

⁹ Document No. 9 filed by the plaintiff under index dated 30.05.2022



authorities.

32. The documents submitted by defendant no. 6/RWA to GNCTD in 2010 including the Layout Plan, the letters issued by RWA in April, 2022, the Police report dated 22.06.2022 and the Local Commissioner's report dated 21.06.2022 prima facie evidence that the plaintiff has been in continuous and settled possession of plot no. D-1 since 1998 as asserted by it and, therefore, its dispossession from the area admeasuring 92 sq. yards forming part of its plot and the cut-off of plot no. D-1 from the internal road/Mata Marg is liable to be restored as per the law laid down by the Supreme Court in **Rame Gowda v. M. Varadappa Naidu** (supra).

33. Pertinently, defendant no. 1 has not disputed before this Court that there indeed existed an old boundary wall partitioning plot no. D-1 and plot no. D-23, which was pulled down in April, 2022 and that a gate was removed, which provided access to the plaintiff to his plot no. D-1.

Defendant no. 1 has instead justified its action of breaking the old wall, removing the old gate and in its place constructing the new wall. The justification given by defendant no. 1 is two-fold: (i) Defendant no. 1 has sought to challenge the title of plaintiff and defendant no. 5 to plot nos. D-1 and D-2 and in this regard defendant no. 1 has also filed a separate suit i.e., CS(OS) 339/2022; and (ii) Defendant no. 1 has sought to contend that the disputed area (of 92 sq. yards) falls in Khasra no. 17/2/1 as per the SDM's demarcation report dated 01.08.2022. And since plaintiff admittedly has no title in Khasra no. 17/2/1 as per its registered title deed dated 19.01.1998, the defendant no. 1's action of re-constructing the boundary wall in April, 2022 does not require any interference from this Court.

34. This Court will now proceed to examine both these defences offered



by Defendant no. 1, to continue to retain the possession of the disputed area of 92 sq. yards, which was trespassed into on April, 2022.

35. In this Court's considered opinion, defendant no. 1's challenge in CS (OS) 339/2022 to the title of plaintiff and defendant no. 5, can have no bearing on the plaintiff's claim for restoration of status quo in this suit, which is based on settled possession since 1998 (i.e., 24 years in April 2022) and is thus protected in law.

36. Nevertheless, this Court has examined the merits of the said argument. Defendant no. 1 has asserted that Mrs. Gayatri Devi, the vendor in sale deed dated 19.01.1998 executed in as on the said date only had title to the extent of 608 sq. yards in Khasra no. 17/2/2 and, therefore, the registered sale deed dated 19.01.1998 seeking to transfer 1008 sq. yards in Khasra No. 17/2/2 is illegal and void. Defendant no. 1 has asserted that Mrs. Gayatri Devi had already transferred 400 sq. yards to third-parties [Ms. Zohra Fatima and Mr. M.B. Pandey] prior thereto in the year 1994.

37. In the considered opinion of this Court, even if the aforesaid submissions are presumed to be correct, the registered sale deed dated 19.01.1998 is valid to the extent of 608 sq. yards which indisputably vested in Mrs. Gayatri Devi. The effect of nullity of the sale deed qua the remaining 400 sq. yards would in law and equity be borne by defendant no. 5, who is the husband of Mrs. Gayatri Devi since he would be presumably aware of the prior actions of Mrs. Gayatri Devi. Thus, rights if any that defendant no. 1 intends to exercise against Mrs. Gayatri Devi would be borne by defendant no. 5, who was allotted plot no. D-2. However, plaintiff's right to plot no. D-1 would not be affected due to the said defect in Mrs. Gayatari Devi's title.



38. This Court also observes that the title claim of defendant no. 1 through Ms. Zohra Fatima on plot no. D-1 and plot no. D-2 is not maintainable, as there is no sale deed in favour of defendant no. 1 for the said 400 sq. yards as on date. Defendant no. 1 has relied upon an ATS, GPA, Will, etc to claim title in 400 sq. yards in Khasra No. 17/2/2 through Ms. Zohra Fatima. It is well settled that such customary documents do not create any title rights in favour of the vendee and, therefore, defendant no.1 cannot maintain any challenge to the registered sale deed dated 19.01.1998 in these proceedings.

39. In this suit defendant no. 1 has also raised challenge to the remaining 600 sq. yards forming part of the registered sale deed dated 19.01.1998 by asserting that one Nova Agency is the owner of the said 600 sq. yards. an ATS dated 14.11.1994 has been placed on record. Firstly, an ATS cannot prove the ownership of Nova Agency; moreover, defendant no. 1 does not claim any rights in the alleged 600 sq. yards purportedly held by the said Nova Agency. This Court has also perused the pleading of CS(OS) 339/2022, filed for challenging the sale deed dated 19.01.1998 and it finds that in that suit as well there is no such assertion that Nova Agency is the owner of 600 sq. yards of forming part of plot no. D-1 or plot no. D-2. This submission is, therefore, is bereft of any merits in its entirety.

40. The second defence of defendant no. 1 is that the disputed area of 92 sq. yards, which formed part of plot no. D-1 falls in Khasra no. 17/2/1 as per the SDM's demarcation map and demarcation report dated 01.08.2022. It is stated that since as per the registered sale deed dated 19.01.1998 plaintiff only has title rights in Khasra no. 17/2/2, he has no right to seek restoration of the boundary wall to its earlier possession.



41. The plaintiff has disputed the SDM's demarcation report. The plaintiff has relied upon the site plan dated 14.07.2021 issued by the Revenue Department (at the request of defendant no. 1) as well as the Layout Plan of the Shanti Kunj colony to state that the area of 92 sq. yards has been in his settled possession since 1998; and the said area fell outside the boundary wall of plot no. D-23.

42. For deciding this issue, this Court presumes that the SDM's demarcation report dated 01.08.2022 is correct and indeed the disputed 92 sq. yards falls in Khasra no. 17/2/1. And, plaintiff as per its own sale deed purchased land which fell in Khasra no. 17/2/2. However, this Court finds merit in the submission of the plaintiff that public documents on record show that plaintiff has been in settled possession of the disputed/trespassed 92 sq. yards since the year 1998 and keeping in view the settled law that even the rightful owner cannot dispossess a person in settle possession, defendant nos. 1 to 4 are not entitled to perpetuate the SDM's report.

Post urbanization of Village, Mehrauli in 1962, Revenue Authorities ceased to have jurisdiction over the subject plan of plot no. D-1 and D-23 and Layout Plan of 2010 has a binding effect

43. Defendant no. 1 is an old resident of Shanti Kunj colony having its branch at plot no. D-3, at least since 2010 and is well aware of the Layout Plan of Shanti Kunj colony submitted to GNCTD. The Layout Plan of the colony shows that plot D-1 has its opening on internal road/the Mata Marg. Even on site, plot no. D-1 as on the date of purchase of plot no. D-3 (i.e., 08.03.2021) had an opening on the internal road/Mata Marg. Defendant no. 1 thus while purchasing plot no. D-23 was aware of the location of plaintiff's plot no. D-1 and its opening on the internal road/the Mata Marg.

44. The land of plot no. D-23 and D-1, though it falls in village Mehrauli



it is admitted that the village Mehrauli was urbanised vide notification dated 13.06.1962 issued under Section 507 of the Delhi Municipal Corporation Act, 1957. Thereafter, the subject land ceased to be governed by Delhi Land Reforms Act, 1954 and the Revenue Authorities ceased to have any jurisdiction over this land. This proposition of law has been authoritatively settled by Supreme Court in **Mohinder Singh v. Narain Singh**¹⁰, has held as under: -

“36. After harmonizing the provisions of the Act, 1954 and Act 1957, we are of the considered view that once a notification has been published in exercise of power under Section 507(a) of the Act, 1957, the provisions of the Act, 1954 cease to apply. In sequel thereto, the proceedings pending under the Act, 1954 become non est and loses its legal significance.”

(Emphasis supplied)

In these facts there was no occasion for defendant no. 1 to have approached the SDM office on 14.06.2021 for carrying out demarcation of Khasra no. 17/2/1. The SDM did not have any jurisdiction over this land in 2021 or thereafter. Defendant no. 1 was bound to take possession of the land forming subject matter of the sale deeds dated 08.03. 2021 on as is where is basis, as per the actual position on the site and as per the Layout Plan of the colony. Defendant nos. 1 to 4 have sought to justify breaking the old boundary wall on the basis of the site map prepared by the Patwari on 14.07.2021.

However, in the opinion of this Court the said site map issued by the Patwari was not legal and valid as it has no legal authority over this land. It was thus impermissible for defendant no. 1 to unilaterally break down the existing boundary wall partitioning plot no. D-23 and plot no. D-1.

45. The defendant no. 1's action in April, 2022 of breaking down the

¹⁰ 2023 SCC OnLine SC 261



existing boundary wall, removing the gate and constructing the new wall amounts to interfering in the settled possession of the plaintiff without following due process of law. Defendant no. 1's action was unlawful and illegal and it cannot be sustained on the basis of the SDM's report dated 01.08.2022.

46. Defendant no. 1 was aware that plot no. D-1 has access to the internal road/the Mata Marg and it purchased plot no. D-23 with this knowledge. However, by constructing the new wall plot no. D-1's access has been cut off to the internal road/the Mata Marg. This Court finds no merit in the submission of the defendant no. 1 that the plaintiff can gain access to the internal road through the plot no. D-2 under the occupation and control of defendant no. 5.

47. Shanti Kunj colony is an unauthorized colony. This colony has already applied for its regularization and has submitted a Layout Plan to GNCTD. The documents submitted by defendant no. 6/RWA to GNCTD have been already referred to above and reproduced. The letter issued by the RWA address to GNCTD while enclosing the Layout Plan is relevant and reads as under: -



2025:DH:4079



SHANTI KUNJ RESIDENTS WELFARE ASSOCIATION (Regd.)
Combined Block A, B, C & D (Society Regn. No : S-26167 OF 1994)
Office: 5 "Shanti Kunj Main", Church Road, Sector D Pocket 1, Vasant Kunj, New Delhi-70
Urban Development Department, Unauthorised Colony Cell, Colony Regn. No. 083
Ph No:- 9818718491

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Dated 28th Dec 2010

To
Sh. Vijay Singh
Special Secretary (U.C)
9th Level, Delhi Secretariat
IP Estate
New Delhi

Sub: EXCLUSIVE LAYOUT PLAN OF "SHANTI KUNJ BLOCK - A, B, C & D"
CHURCH ROAD D -III, Vasant Kunj, New Delhi - 110070
Colony NO -083 (Undisputed / no overlapping with other colony's areas)

Sir,

As we are in receipt of a NOTICE from your office, whereby you have directed us to submit a single Layout Plan or an Exclusive Layout Plan for the colony to avoid the controversy raised because of more than one plan which are overlapping/intersecting with one another.

In this regard our RWA opted for an Exclusive Layout Plan without any alteration in the boundaries of the colony. In the new Layout Plans/files some plots owners, who had joint ownership have separated/ partitioned their plots, some new owners have joined RWA, because they purchased property from the old owners but no addition have been made in the boundaries and area of the colony, only the overlapping area of other colonies have been excluded from the Layout Plan.

A proper Layout Plan prepared by registered Architect duly certified by registered Town Planner with duly signed Certificates and other required documents are enclosed with this application for regularization of Shanti Kunj Block A, B, C & D.

Thanking You
Yours Faithfully

GENERAL SECRETARY

Shanti Kunj Residents Welfare
(SATYENDEVI) Association, New Delhi-70 (Regd.)
SECRETARY
RWA SHANTI KUNJ
Block A, B, C & D

9/3/10/10
29/12/10
[Signature]

48. The RWA has also submitted to GNCTD the list of plots in Block D, which includes plot number, plot area and the status of construction on the plot (i.e., built up or vacant). In this list plot no. D-1 is shown as 500 sq. yards and plot no. D-23 is shown as 1150 sq. yards. The RWA has also submitted to GNCTD a certified Layout Plan which similarly gives details of all the plots. The said Layout Plan is to be read in conjunction with the



2025:DHC:4079



details of all the plots submitted. The said relevant information of D Block read as under: -

SHANTI KUNJ RESIDENTS WELFARE ASSOCIATION (Regd.)
Combined Block A, B, C & D (Society Regn. No : S-26167 OF 1994)
Office: 5 "Shanti Kunj Main", Church Road, Sector D Pocket 1, Vasant Kunj, New Delhi 70
Urban Development Department, Unauthorised Colony Cell, Colony Regn. No. 083
Ph No:- 9818718491

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BLOCK D**RESIDENTS/ PLOT OWNERS/ MEMBERS**

S.No.	Name	Father's/Husband's Name	Plot/ House No.	AREA (In Sq. Yards)	BUILT-UP/ VACANT PLOT
1.	Dr. A.K Gupta	Not Known	D-1	500	Built-Up
2.	Sh. Deepak Mann	s/o Sh. Balbir Singh	D-2	250	Built-Up
3.	Mata Anandmai Ashram	Mata Amrita	D-3	3000	Built-Up
4.	Jyoti Arora	w/o Parveen Arora	D-4	100	Built-Up
5.	Sr. Kartar Singh	s/o Sr. Sucha Singh	D-5	500	Built-Up
6.	Sh. Amanpreet	s/o Sr. Jaspal Singh	D-6	300	Built-Up
7.	Smt. Poonam Gupta	w/o Satyender Gupta	D-7	425	Built-Up
8.	Smt. Minaxi Kashyap	d/o Sh. S.D Kashyap	D-8	600	Built-Up
9.	Sh. Mukesh Gupta		D-9/1	300	Built-Up
10.	Smt. Sushila	w/o Sh. Raj Kumar	D-9/2	75	Built-Up
11.	Sh. Gaurav Saraswat & Sh. Shiv Kumar	s/o Sh. S.K Saraswat s/o M.R Sharma	D-9/3	225	Built-Up
12.	Sh. Rajbeer Singh	s/o Sh. Kanwar Singh	D-10/1	100	Built-Up
13.	Sh. Rajbeer Singh	s/o Sh. Kanwar Singh	D-10/2	100	Built-Up
14.	Sh. P.K Singh	s/o Sh. V.P Singh	D-10/3	100	Built-Up
15.	Sh. Harish Kumar	s/o Sh. Krishan Lal	D-10/4	100	Built-Up
16.	Sh. Arvind Madhok	s/o Sh. L.M Madhok	D-10/5	100	Built-Up
17.	Sh. Nafe Singh	s/o Sh. Dayanand	D-10/6	100	Built-Up
18.	Sh. Shishpal	s/o Sh. Raj Kumar	D-11	200	Built-Up
19.	Sh. Deepak Mann	s/o Sh. Balbir Singh	D-11/1	40	Built-Up
20.	Sh. Ravinder Singh	s/o Sh. Gyan Singh	D-12/1	100	Built-Up
21.	Sh. Abdul Gaffar	s/o Late Shekh Babu	D-12/2	180	Built-Up
22.	Smt. Indu Uday	w/o Dr. Yogi Uday	D-13	180	Built-Up
23.	Sh. Umesh Tyagi	Not Known	D-14	450	Built-Up
24.	Sh. Kartar Singh	s/o Sh. Sucha Singh	D-15	1000	Built-Up
25.	Sh. Rajneesh Maggo	Not Known	D-16	1000	Vacant
26.	Sh. Sunil Sardana	Not Known	D-17	1500	Built-Up
27.	Sh. Saurabh Shandalya	s/o Sh. D.P Ojha	D-18	425	Vacant
28.	Ms. Shalini Ojha	d/o D.P Ojha	D-18/1	425	Built-Up
29.	Sh. Chatwal	Not Known	D-19	1000	Vacant
30.	Sh. Vinod Gupta	s/o Sh. V.P Gupta	D-20	1150	Built-Up
31.	Sh. Parveen Gupta	s/o Sh. V.P Gupta	D-21	1150	Built-Up
32.	Sh. Pardeep Gupta	s/o Sh. V.P Gupta	D-22	1150	Vacant
33.	Sh. Vipin Gupta	s/o Sh. V.P Gupta	D-23	1150	Vacant
34.	Sh. Radhey Krishan	Not Known	D-24	1000	Built-Up

TOTAL AREA: 18,975 Sq. Yards
VACANT AREA: 4,725 Sq. Yards
BUILT-UP AREA: 14,250 Sq. Yards

TOTAL PLOTS/HOUSES: 34
VACANT PLOTS : 5
BUILT-UP PLOTS : 29

GENERAL SECRETARY
Shanti Kunj Residents Welfare
Association, New Delhi 70 (18/1/20)

49. In the considered opinion of this Court, purchase and sale of land in this colony where plots have been demarcated in the Layout Plan certified by an Architect and submitted to GNCTD for approval, the vendors of plot no. D-23 can only sell the land forming subject matter of plot no. D-23 as identified in the said Layout Plan. The aforesaid Layout Plan has been submitted on behalf of all the plot owners of this colony including owner of



plot no. D-23. The plot owners are bound by the Layout Plan, which includes the vendors of plot no. D-23. The defendant no. 1/vendee having purchased the said plot no. D-23 after verifying the plot physically on the site cannot proceed to unilaterally demolish existing boundary walls leading to encroachment on the adjoining plots, as not only does it interfere with the settled possession of the adjoining plot owner, but it also negates the Layout Plan submitted to GNCTD. In this Layout Plan, plot no. D-1 has a single entry in the plot to the internal road/the Mata Marg independent of plot no. D-2. The submission of defendant no. 1 that plaintiff should seek entry to the internal road/the Mata Marg through plot no. D-2 nullifies this Layout Plan. Thus, prima facie on this ground also the interference by defendant no. 1 in the possession of the plaintiff cannot be permitted.

50. The Architect engaged by Shanti Kunj colony for preparing the Layout Plan in 2010 would have available with him the dimensions of each plot as is evident from the Layout Plan. The Layout plan contains minute details about the area of each plot and, therefore, the sale and purchase of the plots ought to have been undertaken as per the said Layout Plan. The arguments submitted by defendant no. 1 for not acting upon the said Layout Plan is without any merits.

51. The principles of granting mandatory interim reliefs has been opined by the Supreme Court in **Dorab Cawasji Warden v. Coomi Sorab Warden**¹¹. The relevant paragraph nos. 16 and 17 of the said judgment read as under: -

“16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the

¹¹ (1990) 2 SCC 117



final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines. Generally stated these guidelines are: -

- (1) The plaintiff has a strong case for trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.
- (2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.
- (3) The balance of convenience is in favour of the one seeking such relief.

17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion.”

(Emphasis Supplied)

52. The Supreme Court in the judgment of **Krishna Ram Mahale v. Shobha Venkat Rao** (supra) after holding that even a rightful owner cannot dispossess an occupant in settled possession, upheld the directions of the trial court for restoration of possession of the plaintiff, who was dispossessed by the true owner without following the due process of law and issued directions for restoration of possession. The relevant portion of the judgment reads as under: -

“12. Learned counsel for the respondent submitted before us that the conduct of the appellant was such that apprehension could justly be entertained that the appellant would try to avoid compliance with the



decree for possession confirmed by this Court by putting some outsider in possession or some other underhand means and that we should direct the executing court that the decree should be executed with the police help against any person or persons who might be in possession of the business and premises wherein it was conducted. Instead of giving any directions to the executing court in this regard, we order that the Court Receiver of Bombay High Court is appointed as the Receiver of the said business and the premises in which the same was conducted as stated aforesaid. He will take possession of the said business and premises from whosoever may be in possession thereof. He may apply for police help in taking possession if he thinks fit. The Receiver will then put the plaintiff in possession as his agent on usual terms without security on payments of such outgoings as the Receiver may think fit but without asking for any royalty. This order will remain in force for a period of eight weeks from the date when the Receiver takes possession as aforesaid but will be subject to any orders which the executing court may pass after hearing the respondent herein.”

(Emphasis supplied)

53. This Court hereinabove has already opined that the documents on record show that plaintiff is in settled possession of the suit land/plot no. D-1 since 1998. The registered sale deed 19.01.1998 executed in favour of the plaintiff and the Layout Plan of the colony *qua* the suit warrants that the plaintiff has a strong case for trial. The prima facie case set up by the plaintiff is of a higher standard that requires the relief of mandatory injunction.

54. The Local Commissioner in its report dated 21.06.2022 has reported that the construction of the new boundary wall by defendant no. 1 has landlocked the plaintiff's plot no. D-1. The relevant portion of the said report at paragraph 7 reads as under: -

“7. There was no demarcation of Khasra No. 17/2/2 and also, there was no access to the undisputed portion of the subject land owned by the Plaintiff. Therefore, the inspection of the subject land was carried out from the outside of the walls surrounding the said



undisputed subject land, which could only be reached through the temple of Defendant No. 1. The actual condition of the subject land as on 07 June 2022 was captured in the photos and videos. Colored prints of photographs and a pen drive containing the recorded video, are annexed herewith and marked as ANNEXURE- 3(Collv).”

(Emphasis Supplied)

55. The Local Commissioner has recommended an access to the plaintiff’s plot no. D-1 through internal road/the Mata Marg in the manner set out in paragraph 11 of its report dated 21.06.2022. This Court vide order dated 02.08.2022 had issued directions for implementation of the said recommendation of the Local Commissioner. Defendant no.1 vide order dated 06.08.2022 gave an undertaking to the Court that defendant no. 1 will provide unrestricted access to the plaintiff pending the disposal of I.A. 12628/2022. Though, defendant no. 1 undertook to provide access to the plaintiff on 06.08.2022, it was through the gate of defendant no. 1 installed in plot no. D-23. This arrangement was to continue until the adjudication of I.A. No. 12628/2022, since the said application is also disposed of today, the direction for restoring the status of the plots D-1 and D-23 as it existed in April, 2022 has been issued.

56. However, in view of the findings returned hereinabove this Court is of the considered opinion that defendant no. 1 has unlawfully cut off plaintiff’s right of ingress and egress to plot no. D-1 from internal road/the Mata Marg in April, 2022. This independent access of plot no. D-1 is documented in GNCTD record when the Layout Plan was submitted by RWA on 28.12.2010. The defendant no. 1 has taken law into its hands and cut off the entry of the plaintiff, which cannot be permissible. Thus, if the mandatory relief is not granted to the plaintiff, it would cause serious injury to the plaintiff.



57. The plaintiff approached the legal authorities for redressal immediately. It first approached the police authorities and then filed the present suit in May, 2022.

58. In view of the findings hereinabove and the law settled by the Supreme Court in **Dorab Cawasji Warden v. Coomi Sorab Warden** (supra) and **Krishna Ram Mahale v. Shobha Venkat Rao** (supra), this Court is of the prime facie opinion that this matter is a fit case for restoring the status quo ante as it existed in April, 2022.

59. Accordingly, it is directed that the plaintiff is hereby authorized to demolish the wall wrongfully constructed by defendant no. 1 to the extent it encroached upon the 92 sq. yards portion of land forming part of plot no. D-1. The plaintiff will restore the boundary wall partitioning plot no. D-1 and D-23 to its original possession as it stood in April, 2022. The plaintiff's frontage [admeasuring 92 sq. yds.] of plot no. D-1 situated in Khasra No. 17/2/2 will be restored. The Local Commissioner appointed by this Court vide order dated 01.06.2022, Mr. Kamal Kumar, Advocate (Mobile No. 9650099833) is once again appointed for carrying out this mandate. The concerned SHO is directed to provide police assistance to the plaintiff and the Local Commissioner for carrying out this mandate.

60. The fee of the Local Commissioner is fixed at Rs. 1,50,000/- to be borne by the plaintiff at this stage and will be recovered from defendant nos. 1 to 4.

61. It is further directed that defendant nos. 1 to 4 are hereby restrained from making any further construction or destroying any part of the suit land, known as plot no. D-1, including but not limited to the wall of the suit land, and alienating, encumbering, transferring or disturbing the status of the suit



land.

62. With the aforesaid directions, the captioned application stands allowed and is disposed of.

I.A. 12628/2022 in CS(OS) 340/2022

63. In view of the order passed in I.A. 9117/2022, this application under Order XXXIX Rule 4 CPC filed by defendant nos. 1 to 4 seeking modification of the order dated 01.06.2022 stands dismissed.

I.A. 15245/2022 in CS(OS) 340/2022

64. This application under Order XXXIX Rule 4 CPC, has been filed by the plaintiff seeking modification of the order dated 06.08.2022.

65. In view of the order passed in I.A. 9117/2022, this application has become infructuous. The application is disposed of being infructuous.

I.A. 11633/2022 in CS(OS) 340/2022

66. This application under Order XXXIX Rule 2A CPC, has been filed by the plaintiff for initiating contempt proceedings against defendant nos. 1 to 4 for violation of the order dated 01.06.2022.

67. In view of the order 06.08.2022, this application has become infructuous. The application is disposed of being infructuous.

I.A. 15247/2022 in CS(OS) 340/2022

68. This application under Order XXXIX Rule 2A CPC, has been filed by the plaintiff for initiating contempt proceedings against defendant nos. 1 to 4 for violation of the order dated 06.08.2022.

69. In view of the order dated 02.09.2024 and directions passed today in I.A. 9117/2022, this application is disposed of.

CS(OS) 340/2022

70. List before the Joint Registrar (J) for admission/denial of documents



and marking of exhibits on 24.07.2025.

71. List before the Court for framing of issues on 22.09.2025.

CS(OS) 793/2022

72. List before the Joint Registrar (J) for completion for pleadings in I.A. No. 21290/2022 on 24.07.2025.

73. List before the Court for framing of issues on 22.09.2025.

CS(OS) 339/2022

74. List before the Joint Registrar (J) for admission/denial of documents and marking of exhibits on 24.07.2025.

75. List before the Court for framing of issues on 22.09.2025.

76. Copy of this order be sent to learned Local Commissioner for information and compliance

77. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

**MANMEET PRITAM SINGH ARORA
(JUDGE)**

MAY 20, 2025/hp/rhc/MG/AKP