



2025:DHC:4484



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

*Reserved on: 17<sup>th</sup> March, 2025  
Date of Decision: 27<sup>th</sup> May, 2025*

+ CS(OS) 242/2021, I.A. 6323/2021, I.A. 10921/2021, I.A. 11565/2021  
I.A. 11571/2021, I.A. 11622/2021, I.A. 20822/2023 & I.A. 7030/2024

MORNI MERCHANTS LTD. & ORS. ....Plaintiffs

Through: Mr. Sameer Vashisht and Mr.  
Vedansh Vashisht, Advocates

versus

WHITE HOUSE PROMOTERS PVT. LTD. & ORS. ....Defendants

Through: Mr. Rajesh Yadav, Sr. Adv. with Ms.  
Mercy Hussain, Advocate

**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

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**J U D G M E N T**

**MANMEET PRITAM SINGH ARORA, J:**

**I.A. 20822/2023 (Application under Order VII Rule 11 CPC on behalf of the Defendant No.2 for rejection of Plaintiff)**

1. The present application has been filed by Defendant No. 2 under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('CPC'), seeking rejection of the plaint.

2. The underlying suit has been filed by the Plaintiffs seeking the following reliefs: (i) mandatory injunction, directing the Defendants to remove their lock from the suit premises i.e., Flat No. 5A and 5B, Fifth Floor, 10 Bhagwan Das Road, White House, New Delhi ('suit property'); (ii) permanent injunction restraining the Defendants from interfering and



obstructing the peaceful possession of Plaintiffs of suit property; and (iii) declaration that the act of Defendants of putting lock over the lock of the Plaintiffs in suit property as unlawful, illegal and contrary to law.

**Arguments of the Applicant/Defendant No.2**

3. Mr. Yadav, learned Senior Counsel for the Applicant/Defendant No. 2 stated that Plaintiffs neither have title nor have possession over the suit property.

3.1. He stated that Plaintiffs were not in possession of the suit property as on the date of filing of the suit. He stated that Plaintiffs were aware that as on the date of filing of the suit, Defendant No. 2 was in possession of the suit property. He stated that in the complaint with police lodged by Plaintiffs against Defendant No. 2 and others dated 28.04.2021, it has been alleged that Defendant No. 2 put his lock over the lock of the Plaintiffs on 25.04.2021. He also referred to the subsequent complaint dated 02.05.2021, filed with police. He stated that despite these facts, the Plaintiffs have not claimed a relief for possession and, therefore, the suit is barred under the proviso to Section 34 of the Specific Relief Act, 1963 ('Act of 1963') (**Re: Anathula Sudhakar v. P. Buchi Reddy**<sup>1</sup>). He stated that Plaintiff No. 1 was aware that as on the date of the filing of the suit, the Defendant No. 2 was claiming rival title over the suit property.

3.2. He stated that a perusal of the averments in the plaint and the documents filed with the plaint, reveal that the Plaintiffs have no registered title documents in their favour. He stated that Plaintiff No. 1 has not filed a suit for specific performance against the Vendor. (**Re: Suraj Lamps & Industries Pvt. Ltd. v. State of Haryana**<sup>2</sup>).

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<sup>1</sup> (2008) 4 SCC 594.

<sup>2</sup> (2012) 1 SCC 656.



3.3. He stated that there is a registered General Power of Attorney ('GPA') dated 19.04.2021 executed by Mr. Raja Deepak Madan ('Raja') son of Mr. Deepak Madan (the original builder and proprietor of M/s Taj) in favour of Defendant No. 2. He stated that in pursuance thereof a registered Agreement to Sell ('ATS') dated 10.06.2021 has been executed in favour of Defendant No. 2. He stated that Raja as successor in interest of late Mr. Deepak Madan is entitled to execute the said documents.

3.4. He stated that there is cloud over the title of the Plaintiffs. He stated that Plaintiffs have not challenged the documents standing in favour of Defendant No. 2 as required under Section 31 of the Act of 1963.

3.5. He stated that Raja had filed an application for impleadment bearing I.A. No. 9721/2021, which was dismissed by the learned Joint Registrar vide order dated 25.01.2023. He stated that the said Applicant/Raja stated in the pleadings that he had executed a GPA in favour of Defendant No. 2 and handed over keys and possession of the flats in question ('suit property') to Defendant No. 2. He stated that despite the finding recorded in the order dated 25.01.2023, the Plaintiffs did not seek either the relief of declaration or the relief of possession. He also relied upon the order dated 12.07.2023 passed by this Court, in the chamber appeal filed against the order dated 25.01.2021.

#### **Arguments of the Non-Applicants/Plaintiffs**

4. In reply, Mr. Vashisht, learned counsel for the Plaintiffs stated that two (2) Flat Buyer Agreements ('FBAs') dated 20.07.1988 were executed by the builder Mr. Deepak Madan ('Deepak') in favour of the Plaintiff No.1. He stated that possession of the suit property was handed over to the Plaintiff No.1 by M/s Taj (through Mr Deepak Madan) vide letter dated 30.08.1992.



4.1. He stated that the Plaintiff No.1 has been in uninterrupted possession of the suit property since 1992 until the filing of the suit in 2021. He stated that in the recovery proceedings initiated against promoter/builder i.e., M/s Taj (proprietorship firm of Mr Deepak Madan) by the Indian Bank, Plaintiff had paid a sum of Rs. 5,53,000/- for each flat to the Bank for redeeming the mortgage.

4.2. He relied upon the order dated 07.12.2005 passed by DRT-II to show that Plaintiff's claim to the suit property was to the knowledge of all the residents of the building known as 'Mandi Mansion Apartment', which includes defendants.

4.3. He stated that in fact there are certain disputes wherein CBI has contended that the suit property is being held by Plaintiff No. 1 as benami for and on behalf of Mr. R.C. Sabharwal. He stated that in fact the title documents of Plaintiff pertaining to the suit properties and the keys of the suit property were seized by CBI on 24.08.1995. He stated that Plaintiff No. 1 is contesting against CBI and disputing their assertion that suit property belongs at Mr. R.C. Sabharwal.

4.4. He stated that the house tax for the suit property has been paid to NDMC<sup>3</sup> by the Plaintiff up-to date till 2020.

4.5. He stated that Defendant No. 2 has propped up FBAs dated 09.03.1994 and made it the basis of the alleged ATS dated 10.06.2021 executed by one Raja.

4.6. He stated that the ATS dated 10.06.2021 has been executed and registered by Defendant No. 2 after the interim order dated 13.05.2021 was passed in this suit. He states that the interim order dated 13.05.2021 was

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<sup>3</sup> North Delhi Municipal Council.



duly communicated to the Defendants and to overreach the said order the ATS was registered post-facto. He refers to the pending application under Order XXXIX Rule 2A CPC i.e., I.A. 11571/2023.

4.7. He stated that the actual physical possession of the Plaintiffs was interfered with on 24.04.2021 by Defendant No. 2 in collusion with Raja. He stated that the said persons were fully conscious that the possession of the suit property is with the Plaintiffs in pursuance to the FBAs dated 20.07.1988 and possession letter dated 30.08.1992.

4.8. He stated that the suit of the Plaintiff falls under the exception recognized in the judgment of the Supreme Court in **Anathula Sudhakar** (supra).

4.9. He stated that the identity of the alleged Raja is seriously disputed. He stated that the said Raja is not traceable. He stated that the Plaintiffs dispute the genuineness of the FBAs dated 09.03.1994 and GPA dated 19.04.2021 alleged to have been executed by Raja.

4.10. He stated that the registered ATS dated 10.06.2021 has been executed by Defendant No. 2 both as the vendor and vendee to overreach the interim order passed by this Court. He stated that Defendant No. 2 owns other properties in Mandi Mansion Apartment and was, therefore, fully aware about the rights and title of the Plaintiffs in the suit property. He states that defendant no. 2 is not a bonafide claimant.

#### **Analysis and Findings**

5. This Court has heard the learned counsels for the parties and perused the record.

6. Before advertng to the captioned application and the facts of the present case, it would be pragmatic to refer to the scope of power of this Court to be exercised under Order VII Rule 11 CPC. As per the mandate of



Order VII Rule 11 CPC, this Court while considering an application under the said provision, has to refer only to the averments made by the plaintiff and accompanying documents of the plaint can also be seen and further the contention of the Defendants would be immaterial while doing so. This exercise of perusing the plaint and documents filed along with the plaint is undertaken to find out whether at the threshold the plaint discloses a cause of action or not and whether the suit is barred by any law. (**Re: Correspondence, RBANMS Educational Institution v. B. Gunashekar**<sup>4</sup>)

7. The Supreme Court in **Kuldeep Sing Pathania v. Bikram Singh Jaryal**<sup>5</sup> held that while deciding an application under Order VII Rule 11 CPC the Court has to only consider the plaint or in essence the pleading of the plaintiff to decide whether it constitutes any cause of action. The relevant portion of the said judgment reads as under:

“7. .... The court can only see whether the plaint, **or rather the pleadings of the plaintiff, constitute a cause of action.** Pleadings in the sense where, even after the stage of written statement, if there is a replication filed, in a given situation the same also can be looked into to see whether there is any admission on the part of the plaintiff. **In other words, under Order 7 Rule 11, the court has to take a decision looking at the pleadings of the plaintiff only and not on the rebuttal made by the defendant or any other materials produced by the defendant.**”

(Emphasis supplied)

Therefore, this Court in the facts of the present case can consider the pleadings of the Plaintiffs i.e., plaint, replication and the documents filed along with the said pleadings, while undertaking the exercise of discerning if there exists any cause of action in favour of the Plaintiffs.

***Permission Letter from the Income Tax Authority***

8. As per the averment in the plaint the suit property was purchased in

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<sup>4</sup> 2025 SCC OnLine SC 793.

<sup>5</sup> (2017) 5 SCC 34.



the year 1988 vide two (2) FBAs and the Plaintiff No.1 was put in physical possession thereof in the year 1992 by Mr. Deepak Madan proprietor of M/s Taj (i.e., the builder/promoter of the building). In this regards a permission letter of the Income Tax Authority dated 09.03.1989 has been placed on record wherein it is recorded that the 'Transferee' is M/s Morni Merchants Ltd. i.e., Plaintiff No.1 and the said letter further records no objection of the concerned department for transfer of the suit property in favour of Plaintiff No.1.

***Proceedings Before DRT-II***

9. It is contended in the plaint that the suit property is part of the superstructure built on a land which was subject matter of a Recovery Case No. 204/1999 pending before the DRT-II. It is stated that Indian Bank had a mortgage on the entire land. Pursuant to the dispute which arose between the builder i.e., M/s Taj and the Indian Bank the said Recovery Case No. 204/1999 was filed by the Bank. It is stated that Flat Occupant(s) of the building known as 'Mandi Mansion Apartments' approached the said Bank to settle the dispute and after deliberation the matter was settled between the Bank and the Flat Occupant(s). It is stated that as per the said settlement the Flat Occupant(s) (in this case the Plaintiff No.1) were to pay Rs. 5,53,000/- for each flat towards the full and final settlement of the Bank's charge over the flats i.e., the suit property.

9.1. The Plaintiff No.1 herein approached the said Bank and thereafter, Plaintiff No.1 entered into a MoU dated 30.07.2004 with the Indian Bank. It is stated that the Plaintiff No.1 paid an amount of Rs. 11,06,000/- (approx.) *qua* discharge of the suit property (which consisted of two (2) flats). The said factum of settlement was in-fact informed by the Indian Bank to the President of the White House Flat Owners Association vide letter dated



28.04.2003. It is stated that a list of Flat Occupants was attached with the said letter dated 28.04.2003 clearly showing that the Plaintiff No.1 was the occupant of the suit property.

9.2. After the payment of the aforesaid amount counsel for Plaintiff No.1 appeared before the DRT-II stating that the bank has yet not given the possession of the suit property back to the Plaintiff No.1. The DRT-II vide the order dated 07.12.2005 directed the Bank to handover the possession of the suit property to the rightful owner after taking copies of respective title deeds. It is pertinent to note that the Indian Bank submitted before the DRT-II that they have no objection in handing back the possession of the suit property on the basis of the copies of the title deed, since the Bank had received the full payment as per the MoU signed between the Indian Bank and the Plaintiff No.1. It is stated by the Plaintiff No.1 that the possession of the suit property was handed back to the Plaintiff No.1 on 26.06.2006. The relevant part of the said order dated 07.12.2005 reads as under:

“The Ld Counsel for the CH Bank submits that in case the Hon’ble Tribunal, permits, they have no objection in handing over back the possession of the flats on the basis of copies of the title deeds since the CH Bank has already received the full payment of the MOU signed between the CH Bank and the owner of the Flats.

**The CH Bank is directed to hand over the possession of the Flats to the rightful owners of the Flats after taking photocopies of the title deeds of the flats** and after ensuring that all dues have been recovered from the owner of the flats as per MOU signed by the Bank as well as the occupants of the Flats.”

(Emphasis supplied)

9.3. Accordingly, it is evident that possession of the suit property was with Plaintiff No. 1 pursuant to the aforesaid directions issued by the DRT-II as on 2006.

#### *Proceedings Before CBI*

10. Plaintiffs have brought on record a fact in the plaint that in a raid at



the premises of the official of Plaintiff No.1 i.e., Mr. Anil Mehta, conducted by the CBI with respect to an ongoing investigation qua one Mr. R.C. Sabharwal, the title deeds of the suit property and the keys of the suit property were seized by the CBI on 25.08.1995.

10.1. Pending the proceedings before the CBI Court, two (2) applications were moved by the Plaintiff No.1 and Plaintiff Nos. 2 and 3. Vide the said application(s) the Plaintiffs sought permission of the CBI Court to sell the suit property and also proposed to deposit an equivalent amount of Rs. 36 Lakhs as security amount in lieu of the suit property. Reply to the said application(s) as filed by State i.e., the CBI opposing the prayers made in application(s) is material to the facts of the present case, as CBI at the relevant time i.e., 2018 in the said reply categorically stated that documents pertaining to title over the suit property are in the name of M/s Morni Merchant i.e., Plaintiff No.1. The relevant paragraph of the said reply filed by CBI reads as under:

“6. That the **property documents of above-mentioned property in the name of M/s Morni Merchants Ltd. have been relied upon in the list of documents filed with the chargesheet.**”

(Emphasis supplied)

In the considered opinion of this Court the said reply of CBI *prima facie* establishes that Plaintiff No.1 had possessory rights in the suit property in 1995.

10.2. The said applications were dismissed by the CBI Court vide order dated 06.04.2021, which is on record. In the said order, the CBI Court observed that while the title deeds of the suit property had indeed been seized by the CBI, such seizure did not amount to seizure of the suit property itself. The Court further noted that the possession of the suit



property remained with the one who was in possession thereof at the time of investigation. The applications were ultimately dismissed on the ground that allowing the same would result in handing over the suit property to a third party, thereby potentially frustrating confiscation proceedings in the event the case of the CBI is proved. The relevant findings and observations reads as under:

“It is nobody's case that the properties in dispute were seized by the investigating agency at any point of time. **They remain in the possession of the person, who had the possession during investigation and at the time of filing of charge sheet.**

.....

Further in case the prosecution succeeds in its case and is able to establish that the flats in dispute are in fact Benami properties of the accused persons, the properties can become liable for confiscation u/s 452 of Cr.PC., **which will not be possible if the properties are handed over to a third. party.** Also the accused persons who itis being alleged are the actual owner of the properties cannot be allowed to benefit themselves by way of this sale through third persons.”

(Emphasis supplied)

10.3. In the considered opinion of this Court the findings and observations rendered by the CBI Court reveals that the possession as on the date of investigation and as on the date of passing of said order was with the Plaintiff No.1 and, therefore, the CBI Court restrained the Plaintiff No.1 to part with the possession of the suit property.

#### ***Property Tax Receipts***

11. The Plaintiffs along with the plaint have placed on record the property tax receipts for the period i.e., ‘2013-2014’, ‘2017’, ‘2019’, ‘2020’ which records that the name and address of the person liable for paying Tax qua the suit property as that of the Plaintiff No.1.

#### ***Conclusion***

12. The record of Income Tax proceedings, CBI proceedings, DRT



proceedings and the NDMC record show that Plaintiff No.1 had possessory title rights in the suit property. The earliest records dates back to '1989' and has been confirmed on several dates thereafter in '1995', '2004', '2006', '2018', '2020' and '2021'. This record establishes the contemporary existence of the FBAs dated 20.07.1988 as well as the possession of the Plaintiff No.1 of the suit property.

13. The proceedings before DRT were infact initiated by the Indian Bank against the promoter builder M/s Taj and discharge of the debt of M/s Taj by the Plaintiff *qua* the flats estops even M/s Taj and its proprietor Mr. Deepak Madan from denying the rights of the Plaintiff No.1. The Defendant No. 2 has not disputed the proceedings before DRT, in which the owners of the entire 'Mandi Mansion Apartments' as it was known then, had participated to redeem the mortgage of the building by making pro-rata payments. Defendant No.2 is resident of Flat No. 2C-2D of the same building in which the suit property is located and the owners of the said flats had also participated in the redemption of mortgage before DRT.

At that stage, no claims were raised by Defendant No.2 *qua* suit property before DRT relying upon FBAs dated 09.03.1994. This gives credence to the Plaintiff No.1's contention that the said FBAs are doubtful.

14. So also, the CBI proceedings were initiated on 24.08.1995 and CBI in its charge-sheet has relied upon the Plaintiff No.1's FBAs dated 20.07.1988 to assert that this suit property was held benami by Plaintiff No.1 for the benefit of the accused Mr. R.C. Sabharwal. The keys of the suit property were also seized by CBI. The Defendant No.2 did not approach CBI for disputing the said assertion and claiming any independent rights in the suit property relying upon their FBAs dated 09.03.1994.

15. The FBAs dated 20.07.1988 and the possession letter dated



30.08.1992 are admissible in evidence as per the unamended Section 53-A of Transfer of Property Act, 1882 ('Act of 1882'). In this regards it would be relevant to refer to the recent judgment of Supreme Court in **Giriyappa & Anr. v. Kamamma & Ors.**<sup>6</sup>, wherein the Supreme Court has held as under:

“12. In terms of this provision, if the above preconditions stand complied with, **the transferor or any person claiming under him shall be debarred from enforcing against the transferee and person(s) claiming under him, any right in respect of the property of which the transferee has taken or continue in possession, other than a right expressly provided by the terms of the contract, notwithstanding the fact, that the transfer, as contemplated, had not been completed in the manner prescribed therefor by the law for the time being in force.** Noticeably, an exception to this restraint is carved out qua a transferee for consideration, **who has no notice** of the contract or of the part-performance thereof.”

(Emphasis supplied)

15.1. In the facts of this case Plaintiff No.1 is the transferee and Defendant No.2 is the party claiming through the transferer i.e., M/s Taj through its proprietor Mr. Deepak Madan (and later through Raja). The Plaintiff No.1 is thus entitled under Section 53-A of the Act of 1882 to resist the claim of Defendant No. 2.

16. The Supreme Court in **Anathula Sudhakar** (supra) has held that where the Plaintiff No.1 is in lawful and peaceful possession of the suit property, a simplicitor suit for injunction will lie to restrain the defendant. The relevant paragraph of the said judgment reads as under:

“13.1 Where a **plaintiff is in lawful or peaceful possession** of a property and such possession is interfered or threatened by the defendant, **a suit for an injunction simpliciter will lie.** A person has a right to protect his possession against **any person who does not prove a better title** by seeking a prohibitory injunction.....”

(Emphasis supplied)

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<sup>6</sup> 2024 SCC OnLine SC 3849.



16.1. In the facts of this case, the possession of the suit property received by the Plaintiff No.1 under FBAs dated 20.07.1998 is lawful and the Plaintiff No.1 is entitled as per Section 53-A of Act of 1882 to resist any attempt by the Defendants, who claims through the builder i.e., M/s Taj or through its proprietor Deepak (now Raja).

17. Reading the averments in the plaint holistically and taking them to be correct at this stage, this Court is of the view that the contention of the Defendants that the plaint discloses no cause of action and is barred by law, cannot be sustained. Therefore, the plaint cannot be rejected at the threshold under Order VII Rule 11 CPC and the application is bereft of merits.

18. Accordingly, the captioned application stands dismissed.

**I.A. No. 6323/2021 (Application under Order XXXIX Rules 1 and 2 CPC) and I.A. No. 11622/2021 (Application under Order XXXIX Rule 4 CPC)**

19. The underlying suit has been filed by the Plaintiffs seeking the following reliefs: (i) mandatory injunction, directing the Defendants to remove their lock form the suit premises i.e., Flat No. 5A and 5B, Fifth Floor, 10 Bhagwan Das Road, White House, New Delhi ('suit property'); (ii) permanent injunction restraining the Defendants from interfering and obstructing the peaceful possession of Plaintiffs of suit property; and (iii) declaration that the act of Defendants of putting lock over the lock of the Plaintiffs in suit property as unlawful, illegal and contrary to law.

20. This Court vide order dated 13.05.2021 passed in I.A. No. 6323/2021 filed by the Plaintiffs under Order XXXIX Rules 1 and 2 CPC seeking *ex-parte* ad-interim injunction qua the possession of the Plaintiffs of the suit property, passed a *status quo* order and restrained the Defendants from selling, alienating or transferring or parting with possession of the suit property in any manner whatsoever.



21. Defendant No.2 has filed I.A. No. 11622/2021 under Order XXXIX Rule 4 CPC seeking vacation of the order dated 13.05.2021.

22. Both the captioned applications will be dealt with together as the same relates to the order dated 13.05.2021 and reliefs granted therein.

*Analysis and Findings*

23. The observations made by this Court while dismissing the application under Order VII Rule 11 CPC, as regards the contemporary record available in public domain establishing the possessory title of the plaintiff in the suit property be read as a part of this order for adjudicating Order XXXIX Rules 1 and 2 CPC application.

24. This suit was filed on 07.05.2021 and the interim order was passed on 13.05.2021.

24.1. Defendant No. 2 has propounded the registered ATS dated 10.06.2021, executed after the passing of the interim order. Perusal of the said ATS would show that the 'Vendor' is Defendant No. 2 himself as the POA holder of Raja and the 'Vendee' is again Defendant No. 2 himself.

I.A. No. 11571/2021 filed by the Plaintiffs under Order XXXIX Rule 2A CPC stating that the said ATS dated 10.06.2021 has been executed after the filing of this suit and despite knowledge of the interim order is pending.

25. This Court has already observed while deciding I.A. No. 20822/2023 above, that as per contemporary record FBAs dated 09.03.1994 (relied upon by defendant no. 2), even if presumed to have been executed between M/s Taj and Defendant No. 2 were not acted upon by the said Defendant No.2 between 1994 until 19.04.2021. In law, FBAs dated 09.03.1994 could not have been executed by M/s Taj, without cancelling the FBAs dated 20.07.1988. The execution of the GPA dated 19.04.2021 by Raja as the successor in interest of M/s Taj in favour of Defendant No. 2, cannot bind



the Plaintiff No.1, who is claiming independent rights in the suit property from M/s Taj under its FBAs dated 20.07.1988, which are prior in time. For the same reason, the registered ATS dated 10.06.2021, which finds its genesis in FBAs dated 09.03.1994 cannot vest any better rights in Defendant No. 2.

26. The proceedings before DRT-II prima facie establishes that Defendant No.2 was aware about the Plaintiff's possessory title in the suit property and, therefore, Defendant No. 2's act of obtaining GPA dated 19.04.2021 and ATS dated 10.06.2021 is not saved in view of the proviso to Section 53-A of the Act of 1882, since, Defendant No. 2 had full notice of the possessory title of the Plaintiffs.

27. M/s Taj and its successor Raja were aware of the DRT-II proceedings and they never objected to the redemption of mortgage by the Plaintiff, while asserting rights under FBAs dated 20.07.1988.

28. Considering the overall facts and circumstances of the case and the findings arrived at while deciding I.A. No. 20822/2023 the application filed by the Plaintiffs under Order XXXIX Rules 1 & 2 CPC being I.A. No. 6323/2021 is allowed. The interim order dated 13.05.2021 is made absolute during the pendency of the suit. Consequently, application filed by the Defendant No.2 under Order XXXIX Rule 4 CPC being I.A. No. 11622 is dismissed.

29. This Court hereinabove has already opined that the documents on record show that the Plaintiff No.1 is in possession of the suit property since 1992. The *prima facie* case set up by the Plaintiff No.1 is of higher standard that requires the relief of mandatory injunction.

30. The principles of granting mandatory interim reliefs has been opined by the Supreme Court in **Dorab Cawasji Warden v. Coomi Sorab**



**Warden**<sup>7</sup>. 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 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)

31. Accordingly, it is directed that the Plaintiffs are hereby authorized to remove the lock of the Defendants put on the suit property by breaking it open. The concerned SHO is directed to provide police assistance if there is any resistance faced by the Plaintiffs in removing the said lock by the Defendants, on a written request.

32. In light of the findings recorded in this judgment, the operation of the ATS dated 10.06.2021 and the GPA dated 19.04.2021 executed by

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<sup>7</sup> (1990) 2 SCC 117.



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Defendant No. 2 shall remain stayed, pending the final adjudication of the underlying suit. Defendant No. 2 is restrained from asserting any right relying upon ATS dated 10.06.2021 and the GPA dated 19.04.2021.

33. Accordingly, the captioned application(s) stands disposed of.

**I.A. No.7030/2023 (Application of the Plaintiffs seeking rescheduling of the next date of hearing in I.A. No. 20822/2023 any time after 29.04.2024)**

34. In view of the adjudication of I.A. No. 20822/2023, the relief sought in the present application has become infructuous.

35. Accordingly, the application stands dismissed as infructuous.

**CS(OS) No. 242/2021**

36. I.A. No. 10921/2021, I.A. No. 11565/2021 and I.A. No. 11571/2021 are not being considered by this Court at this stage and the same will be considered on the next date of hearing.

37. List before learned JR for completion of pleadings on **31.07.2025**.

38. List before Court on **28.10.2025**.

**MANMEET PRITAM SINGH ARORA  
( JUDGE)**

**MAY 27, 2025/sk**