

IN THE COURT OF XI ADDITIONAL DISTRICT JUDGE, VISAKHAPATNAM.

APVS000042292015



**PRESENT: SMT. P. SRI SATYA DEVI,**  
XI Additional District Judge,  
Visakhapatnam.

**Tuesday, the 05<sup>th</sup> day of August, 2025**

**ORIGINAL SUIT No.804/2015**

**BETWEEN:**

1. Andhra Pradesh Electrical and Equipment Co.Ltd. (APEEC) (Prop. Electric Construction & Equipment Co.Ltd.,) name changed to M/S-ECE Industries Ltd., on 05.06.1987, a company incorporated in the companies act 1956 with its Registered Office at ECE House 28-A, Kasturba Gandhi Marg, New Delhi 11001 and Local Office at Birla Junction, NH-5 Road, Jyothi Nagar, Visakhapatnam 530 007 represented by its authorized signatory Sri Deepak Kumar Tiwary, S/o Madan Tiwary, Hindu, aged 43 years, residing at Jyothinagar, Marripalem, Visakhapatnam.
2. Bhukhand Developers LLP, incorporated and registered under the Limited Liability Partnership Act, 2008 and having its office at 4 India Exchange Place, 6<sup>th</sup> floor, Kolkata 700001 rep. by its authorized signatory Shri R.Mohan Reddy, S/o late R.P.Reddy, aged 64 years, r/at Ashok Marg, Sanathnagar, Hyderabad.

**(2<sup>nd</sup> plaintiff added as per orders in IA.371/2020  
dt. 28.01.2021)**

**... Plaintiffs**

**AND:**

1. Nethinti Appanna, S/o Ramaiah, aged 50 years, resident of D.No.11-9-12, Srikurmam Madhura Manguvaripeta, Srikakulam, Srikakulam town.
2. Aarangi Chakravarthi, S/o Ramachandrarao, aged 26 years, resident of D.No.2-2-31, Kamarajamma Street, Near old employment Ilisilipuram, Srikakulam town.

3. Bagadi Venkata Ramana Murthy, S/o Bagadi Lakshminarayana, aged 42 years, resident of D.No.14-657, MM Nagar, Palakonda, Srikakulam District.
4. Gandhi Radha Krishna, S/o Appala Naidu, aged 40 years, R/at D.No.1-278/A, Mallunaidupalem, Sabbavaram mandalam, Visakhapatnam District. **(Died)**.
5. Nethinti Chenchu Naidu, S/o late Ramaiah, aged 46 years, R/at D.No.13-9-21/20, Manguvaru Gardens, Srikakulam. **(Died)**.
6. Smt.Aarangi Hemalatha, W/o Ramachandrarao, aged 50 years, resident of D.No.2-2-31, Kamarajamma Veedhi, Lsilipuram, Srikakulam Town.
7. Bagadi Lakshmi Narayana, S/o late Neelaiah, aged 73 years, R/at D.No.14-667, Murali Mohan Nagar, Palakonda, Srikakulam District. **(Died)**
8. Gandhi Demudu, S/o Apalanaidu, aged 50 years, R/at D.No.1-278/A, Mallunaidupalem Village, Sabbavaram Mandalam, Visakhapatnam District.
9. The District Registrar, Visakhapatnam-1.
10. The Sub Registrar, Dwaraakanagar, Visakhapatnam.

**... Defendants**

This suit has come on 25.07.2025 for final hearing before me in the presence of Sri Kaikala Rama Kireeti, Advocate for the Plaintiffs and of Sri T.Gowthameswara Rao (Gowtham), Advocate for defendants 1 to 3, 6,8 and of Sri T.Ravi Kumar, Government Pleader for defendants 9 and 10, the same having stood over for consideration, this Court made the following:

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

This suit filed by the 1<sup>st</sup> plaintiff initially seeking declaration that the four registered General Power of Attorneys bearing numbers

643/2015, 644/2015, 645/2015 and 646/2015 alleged to have been executed in favour of defendants 1 to 4 are null and void and for consequential injunction restraining the defendants 9 and 10 from acting upon such documents and for permanent injunction against defendants 1 to 8 restraining them from ever interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule property. Subsequently 2<sup>nd</sup> plaintiff was added as a party to the suit.

**2. The nutshell of the plaintiff's case, is as follows:**

**a)** 1<sup>st</sup> plaintiff is the absolute owner and long standing possessor of Ac. 21.27 2/3 cents of land situated at Marripalem and Kapparada of Visakhapatnam district, acquired through several registered sale deeds in the year 1962, 1963, 1965, 2009 and 2011. The property includes Ac. 2.30 cents initially held under long lease and subsequently purchased through 4 registered sale deeds i.e in the year 2009- Ac. 0.15 cents in S.No.59/3P, in the year 2011- Ac.0.15 cents in S.No.59/3P, Ac. 1.00 cents in S.No.59/3P, and Ac. 1.00 cents in S.No.66/1. Thus, the plaintiff has established an industrial facility for the manufacture of electrical transformers etc., which is known locally as Birla Company site and the adjacent road junction is popularly called as Birla Junction.

**b)** 1<sup>st</sup> plaintiff alienated an extent of Ac. 10.97 cents out of their land of Ac. 21.27 2/3 cents to Lakshmi Techno Solutions under an agreement of Sale cum General Power of Attorney in the year 2013 and 2014. After the sale of the land by the plaintiff, 1<sup>st</sup> plaintiff applied to the Government Authorities for conversion of the land from industrial to partly residential and partly commercial use. The 1<sup>st</sup> plaintiff retained possession of Ac. 10.30 2/3 cents which is now the subject matter of the present suit. The Government granted G.O.Ms.No.249, dated 11.12.2014 in favour of the 1<sup>st</sup> plaintiff. Later 1<sup>st</sup> plaintiff alienated part of the land to its sister concern i.e., 2<sup>nd</sup> plaintiff by way of two registered sale deeds under document No. 2709/15, dated 29.07.2015 and 2790/15, dated 30.07.2015.

**c)** The plaintiffs alleged that defendants 1 to 8 fraudulently created four registered General Power of Attorneys bearing Nos. 643, 644, 645, 646 of 2015, dated 23.02.2015 using fabricated link documents, impersonation, amendment of Stamp duty exemption available to relatives. A report dated 23.05.2015 by the District Registrar also confirmed that four GPAs were forged though he expressed lack of power to cancel them. The District Registrar, recommended action against the Sub-registrar, against whom a criminal case is pending. These General Power of Attorneys,

according to the plaintiff, purporting to relate to land not actually owned by the purported executants, and were executed using incorrect and falsified prior title deeds and mis-described survey numbers. The plaintiffs lodged police complaints (crime 174/2015 and 80/2015), and the MRO conducted a survey confirming plaintiff's possession through his report dated 01.10.2015. Meanwhile the plaintiffs sought declaratory and injunctive relief through this suit. However following direction and developments in connected writ proceedings, Plaintiffs have abandoned the declaratory relief in respect of the GPAs and the consequential relief against defendants 9 and 10 and now pressed only for perpetual injunction against defendants 1 to 8 and for costs.

**3.** On receipt of suit summons, defendants made their appearance. The written statement filed by the 3<sup>rd</sup> defendant was adopted by the defendants 1,2,4 to 8 whereas 10<sup>th</sup> defendant filed a separate written statement which was adopted by 9<sup>th</sup> defendant.

**The sum and substance of written statement filed by D1 to D8 is as follows:**

**i)** The suit is not maintainable either on law or on facts and it is barred by limitation and lack of cause of action and is vexatious and false. Plaint is drafted with false, misleading and concocted

averments with the sole intention of harassing the defendants and preventing them from exercising their lawful rights under valid documents.

**ii)** Defendants denied that the 1<sup>st</sup> plaintiff is absolute owner and possessor of plaint schedule property and the suit land was never part of a transformer manufacturing unit and not part of the schedule land was leased in 1963. In fact defendants 1 to 8 are successors in title and enjoyment of the land covered under the suit schedule property, having derived the same through a valid chain of title starting from one Sri Allam Venkata Ratnam and his family members. Originally Ac. 22.27 cents comprising the 10 items purchased by Sri Sanapala Jagannaikulu, Sri Bagadhi Neelayya, Sri Nethinti Appanna, Sri Gandhi Appala Naidu of Madhurawada village under two registered sale deeds bearing Nos. 2639/1963, 2640/1963 dated 30.03.1963 from Sri Bandi Lakshmi Naidu, Bandi Butchiah, Sri Parri Venkata Ramana, Sri Pallapu Pydiah, Sri Thelli Veerannaidu, Sri Pallam Appala Naidu, Sri Bandi Butchiah, Sri Polamarasetty Appala Naidu for a valuable consideration. The registered sale deeds dated 30.03.1963 bearing numbers 2639, 2640 of 1963 are very much genuine, true and correct. The names of the purchasers reflected in

all Revenue records like settlement fair adangal and record of rights and survey land registers etc.

**iii)** From them through successive alienation including partition and inheritance authority, title vested with the defendants 1 to 8 and the GPAs are genuine and enforceable, since Sanapala Jagannaikulu (one of the vendees) executed an unregistered will dated 06.05.1997 bequeathing his self acquired and orally partitioned and devolved share of properties total admeasuring Ac. 3.90 cents situated at Visakhapatnam Municipal Corporation covered by S.Nos. 57/3, 57/2, 57/5, 58, 59/3, 66/1, 66/2, 66/3, 66/4, 68/1 in favour of his daughter-in-law Smt. Arangi Hemalatha (D6) who is one of the executants of the four registered General Power Attornies. Later he died on 06.06.2008. After his demise she became absolute owner of said property and came into possession of said properties.

Likewise Bagadhi Neelayya (one of the vendees) executed one registered will deed bequeathing his self acquired, orally partitioned, his devolved share of properties Ac. 6.37 cents covered in S.No.57/1B, 57/2, 57/4, 57/5, 58, 59/3, 66/1, 66/2 and 68/1 of Marripalem village within the limit of Greater Visakhapatnam Municipal Corporation, in favour of his only son Bagadhi Lakshmi Narayana (D7) and said will came into force upon his death on

03.02.1975.

The 3<sup>rd</sup> vendee i.e., Nethinti Appanna during his life time did not execute any document in respect of his self acquired, orally partitioned, devolved share and died intestate. After his demise his only surviving son Nethinti Ramayya who is father of 1<sup>st</sup> defendant got the property of his father. In turn he executed an unregistered will dt.14.03.1989 in favour of his two sons Nethinti Chenchu Naidu (D5) and Nethinti Appanna (D1). Later Nethinti Ramayya died on 05.02.1990. After his death the said will came into force and the properties ad-measuring Ac. 6.89 cents covered by S.No57/1B, 57/2, 57/3, 57/4, 57/5, 58/2, 59/3, 66/1, 66/3 and 68/1 devolved upon his sons, who have been in possession and enjoyment of the same without any hindrance.

The 4<sup>th</sup> vendee Gandhi Appala Naidu executed an unregistered will dated 09.05.2003, bequeathing his self acquired, orally partitioned and devolved properties measuring Ac. 50.08 cents covered by S.No.57/B, 57, 59/1, 59/2, 59/3, 66/1, 66/4, 66/3 in favour of his two sons by name Gandhi Demudu (D8) and Gandhi Radha Krishna (D4) and he died on 27.04.2004. By virtue of his death the bequest made by him came into force and defendants 4 and 8 became absolute owners of said property.



**iv)** By virtue of the said four wills the properties covered under the registered sale deeds vide document Nos. 2639, 2640 of 1963, devolved upon defendants 1 to 8, and in turn with such absolute rights D5 to D8 executed registered general power of attornies bearing Nos. 643/15, 644/15, 645/15 and 646/15 in favour of defendants 1 to 4 who are none other than their own brothers. Hence, veracity, correctness, genuineness, truthfulness and maintainability and enforceability, under law of all these documents cannot be suspected.

**v)** The plaintiffs are not in actual possession of the entire plaint schedule property and their claim is limited to certain industrial sheds or a smaller portion if any. The FIR mentioned by the 1<sup>st</sup> plaintiff in Cr.No.174/15 and 80/15 are maliciously initiated. The MRO report and District Registrar's report are termed unilateral, baseless and not binding on the Civil Courts. Since the plaintiffs did not obtain declaratory relief in time, the plaint is liable to be dismissed with costs as there are no justifiable or reasonable grounds in filing this suit.

**The sum and Substance of the written statement filed by D9:**

While admitting the plaint pleadings, defendants 9 and 10, specifically contended that criminal prosecution also been

launched against defendants 1 to 8 who fraudulently got registered four General Power of Attorneys vide document Nos. 643/15, 644/15, 645/15 and 646/15 conspiring with the concern sub registrar, by producing false statements by delivering false copies and evidence which acts invoked the Penal provisions and CC.840/2015 is pending for disposal on the file of I Addl. Metropolitan Magistrate, Visakhapatnam. Plaintiffs company had moved all the Government authorities thereupon and they were directed by the Hon'ble High Court to make an enquiry and to file their report, in compliance of the interim orders in I.A.1943/2015. Hence, they prayed this court to issue direction to them an order for cancellation of registered General Power of Attorneys, in the best interest of justice.

**4.** Based on the above pleadings, the following issues were settled for trial by my learned Predecessor in the office :

1. Whether the defendants fabricated the GPA's in documents Nos.643 to 646 of 2015 by playing fraud?
2. Whether the plaintiffs are entitled for permanent injunction against the defendants?
3. Whether the properties covered the sale deeds 2639 and 2640 and four wills executed by S.Jagannayakulu, V.Neelayya, N.Appanna and G.Appalanaidu, devolved on defendants 5 to 8 and they are absolute owners?

4. Whether the suit is not maintainable for non compliance of Sec.79 and Sec.80 of CPC against D9 and D10?
5. Whether the plaintiffs are entitled for declaration the four GPAs are void? And
6. To what relief?

Since the plaintiffs expressly abandoned the reliefs concerning the declaration pertaining to the general power of attorneys executed by defendants 5 to 8 in favour of defendants 1 to 4 and consequential relief of injunction against defendants 9 and 10 and confined to the relief of permanent injunction against defendants 1 to 8 in view of the outcome of the Writ Petition bearing No.15418 and 27269 of 2015, dated 13.04.2022, the above issues can be recasted for the better appreciation of the pleadings in the light of specific defense of the defendants.

1. Whether the suit schedule property is identifiable and properly described by the plaintiffs?
2. Whether the plaintiffs proved lawful possession over the entire plaint schedule property based on title?
3. Whether the plaintiffs are entitled for perpetual injunction as prayed for or, not?
4. To what relief?

**5.** During the course of trial, the Chairman and Managing Director of the 1<sup>st</sup> plaintiff company was examined as PW.1/Prakash Kumar Mohtra and got exhibited 18 documents under Exs.A1 to A18. Out of these documents Ex.A1 is the notarized copy of certificate of incorporation of the 1<sup>st</sup> plaintiff company. Ex.A2 is the copy of the G.O.Ms.No.249/2014, dated 11.12.2014. Exs.A3 and A4 are the registered sale deeds bearing document Nos.2639/63, 2640/62, dated 09.12.1963. Exs.A5 to A16 are the proceedings initiated by the 1<sup>st</sup> plaintiff complaining the fabrication of GPAs by defendants 1 to 8 and action by the concerned investigation agency as well as the revenue officials. Ex.A17 is the original electricity bill with receipt dated 08.12.2015. Ex.A18 is the original telephonic bill along with receipt, dated 05.06.2015.

PW.2/Deepak Kumar Tiwary is the authorised signatory of the 1<sup>st</sup> plaintiff company. His evidence in lieu of his chief examination affidavit is nothing but replica of plaint pleadings, through whom 11 documents marked under Exs.A22 to A33 which are the copies of the registered sale deeds in favour of the 1<sup>st</sup> plaintiff, right from the year 1964 to 2011 (All these documents compared with the originals while admitting into evidence).

PW.3/R.Mohan Reddy is the authorised signatory of 2<sup>nd</sup> plaintiff. His evidence in chief is confined to the sale transaction of Ac.4.96 cents between plaintiffs 1 and 2 under registered conveyance deeds marked under Exs.A19 and A20. Apart from that the certified copy of common order in Writ Petition No.15418 and 27269 of 2015, dated 13.04.2022 of Hon'ble High Court of Andhra Pradesh, exhibited under Ex.A21.

The defendant No.3/B.Venkata Ramana and defendant No.6/A.Hema Latha are examined as Dws.1 and 2 and got exhibited 6 documents under Exs.B1 to B6. Exs.B1 and B2 are certified copies of the letter dated 22.01.2015 issued by the Joint Sub Registrar, Visakhapatnam with regard to document bearing Nos. 2639/1963 and 2640/1963. Ex.B3 is the Original will dated 20.01.2015 executed in favour of 3<sup>rd</sup> defendant. Exs.B4 to B6 are Certificates issued by II Town Police Station, Srikakulam dated 11.11.2015 about missing of the original sale deeds.

DW.3/Kinthali Satyanarayana is third party to the proceedings, deposed in lieu of his chief examination affidavit about the long standing possession of the defendants over the plaint schedule property.

**6.** The learned plaintiff's counsel submitted his arguments as G.O.Ms.No.249/2014 issued by the government in favour of the plaintiff which is exhibited under Ex.A2 clearly reflects the title of the plaintiff over the land covered by S.No.57/3, 57/4, 57/5P, 66/1, 66/2, 66/3, 66/4 and 59/1P of Marripalem, Visakhapatnam and the boundaries which are given in the schedule of said G.O.Ms.No. 249 clearly establishes the sanction of land to the plaintiff within the boundaries mentioned in the plaint schedule. He further submitted that the categorical admissions of Dws.1 to 3 during their cross examination further establishes the possession of the plaintiffs over the suit schedule property. Since the plaintiffs confined this relief only, for perpetual injunction against D1 to D8 from ever interfering with his such admitted possession of the suit schedule property, basing on the evidence available on record, the suit is deserves to be decreed. He also relied upon the following judgments in support of his arguments.

1. S.Kesari Hanuman Goud Versus Anjum Jehan And Others reported in CDJ 2013 SC 302;
2. Periya Pappal Versus Muthalammal reported in CDJ 2015 MHC 010.

**7.** The learned counsel for defendants 1 to 8 submitted that suit schedule property is a vacant land in an extent of Ac. 10.30 2/3 cents as claimed by the plaintiffs and the basis for the plaintiffs is G.O. 249 issued by the Government under Ex.A2 but the extent of the land covered under said G.O.is Ac. 7.82 cents but not Ac. 10.30 2/3 cents and the plaintiff failed to give any plausible explanation for such difference. He further argued that filing of this suit is an attempt of the plaintiff to grab more extent than the land covered under Ex.A2. He further submitted that the survey number covered by the alleged title documents relied by the plaintiffs under Ex.A25 to A29, A31 to A33 do not tally with the Ex.A2/G.O. He further submitted that as per Ex.A8/MRO report the total extent is Ac. 37 2/3 cents in S.No.42/4P and 42/1P (Column No.9 and 15) but it was not correlated by revenue records. Hence, the findings in Ex.A8 cannot be considered. In view of the common order passed in Writ Petition under Ex.A21, particularly specific observations of the Hon'ble High Court at para No.15 of the said order, the plaintiffs have to establish their possession based on title to get the relief of Injunction. He further submitted that there is no evidence to show that defendants 1 to 8 fabricated documents. No pleading in the plaint that plaintiff is in possession and enjoyment of plaint schedule property and para

No.3(d) and 3(j) of plaint are quite inconsistent. Ex.A8 was brought into existence after selling the land to 2<sup>nd</sup> plaintiff, only to show as if the 1<sup>st</sup> plaintiff is in possession of the plaint schedule property. In fact plaint schedule is different with pleadings. He further argued that the document under which plaintiff sold the properties to Lakshmi Technologies not filed and the registered sale deeds of the year 2009, 2011 and 2015 not proved by the plaintiff by examining attesting witnesses of the same. Written arguments also filed in addition to the oral arguments.

By way of reply the learned plaintiff's counsel argued that defendants tried to widen the scope of this suit instead of confining for declining the relief sought by the plaintiffs. He further reiterated that the boundaries will prevail over extents and survey numbers. Hence, the property covered within boundaries mentioned in Ex.A2 G.O.Ms.No.249/11 binds the defendants. He further submitted that the order in Writ Petition No.15418 and 27269 of 2015 (Ex.A21) challenged by them by filing a writ appeal and it is subjudised. Hence, the finding of the MRO under Ex.A8 which was not challenged till today shall be taken into consideration. The cause of action arose in the plaint to file the suit as and when they came to know about



the fabrication of documents by the defendants 1 to 8 to grab the plaint schedule property. Hence, without any amount of delay plaintiffs filed this suit. Under Section 110 of Indian Evidence Act the burden is upon the defendants 1 to 8 to establish their title and possession over the schedule property by filing the suit for declaration of their title but it was not yet done. As such the argument of the defendants shall not be considered and prayed the court to decree the suit.

**ISSUE No.1 :**

**8.** Plaintiffs claiming lawful possession based on title over Ac. 10.30  $\frac{2}{3}$  cents of land situated at Marripalem and Kapparada villages of Visakhapatnam in different survey numbers with common boundaries as shown in the plaint schedule. As elicited from PW.2 this property in an extent of Ac. 10.30  $\frac{2}{3}$  cents covered under Exs.A22 to A33. As could be seen from these sale deeds, the properties covered under these documents are distinct extents under different schedules, which are not separately mentioned in the plaint schedule for the total extent of Ac. 10.30  $\frac{2}{3}$  cents. As further elicited from PW.2 the total extent of the property covered under Exs.A22 to A33 is Ac. 14.92  $\frac{2}{3}$  cents. Though the boundaries given

in the plaint schedule tallies with the schedule given in Ex.A2 G.O.249/11, that do not conclusively establish the boundaries of the suit schedule property especially when the property covered under these documents having different boundaries. In **Ramesh Chand Advitiya Vs. Anil** reported in **AIR 1969 SCC 1316**; the Hon'ble Supreme Court held that "Where there is ambiguity or conflict between boundaries and extent, both must be read harmoniously. If inconsistency remains, the extent shall prevail." In this case since even the boundaries do not distinctly match across all documents, the identity of the suit property for the total extent as claimed is not established. As such with the given particulars in the plaint schedule, Ac. 10.23 2/3 cents of land covered under Exs.A22 to A33 cannot be identified on ground even with the boundaries mentioned in Ex.A2. Accordingly this issue answered.

### **ISSUE No.2 :**

**9.** Before advertizing to appreciate the oral and documentary evidence adduced by either parties, it is quite preferable to discuss the scope of the suit and the legal as well as evidential burden lies upon both parties. Though the plaintiff prayed relief of injunction, the pleadings clearly disclosed a title dispute.

Under Section 101 and 102 of the Indian Evidence Act, the burden lies on the plaintiff to prove their possession over the suit schedule property based on title as on the date of suit and even prior to that. Once the prima facie case of the plaintiff was made out by discharging the above evidential burden, the onus of proof shifts upon the defendants 1 to 8 to disprove the that plaintiffs never in possession of schedule property prior to the year 2015 and in fact they have been in long standing possession of the schedule properties. The settled position of law is that a suit for bare injunction can be maintained only on the basis of possession, even without title, if the possession is lawful and peaceful. However, where rival title claims exist, and the plaintiffs' possession is disputed the plaintiffs must also establish the legal right to possession. Hence, in the light of rival contentions of the parties the title of the plaintiffs have to be gone through incidentally while deciding their possession as on the date of filing the suit.

**10.** In the case on hand as admitted by PW.1, property covered under Exs.A3 and A4 sale deeds is only Ac. 2.70 cents. As admitted by PW.2, Exs.A22 to A33 covers only Ac. 14.92  $\frac{2}{3}$  cents ( 2.70 cents +14.92  $\frac{2}{3}$  cents = 17.62  $\frac{2}{3}$  cents). According to the plaintiff's

version the 1<sup>st</sup> plaintiff was absolute owner of Ac. 21.72 2/3 cents of land situated at the villages of Marripalem and Kapparada. But no document filed for the remaining extent of Ac. 4.10 cents (Ac. 21.72 2/3 cents - Ac. 17.62 2/3 cents = Ac. 4.10 cents). According to the plaintiffs, 1<sup>st</sup> plaintiff sold Ac. 10.97 cents to Lakshmi Technologies. But no documentary evidence adduced to that extent. As per Ex.A2 G.O., an extent of 31645 .38 sq. meters sanctioned to Plaintiff for conversion which is equivalent to Ac. 7.82 cents. The plaintiffs' claim is after selling the land to Laxmi technologies their remaining extent is Ac. 10.30 2/3 cents, but this ambiguity regarding remaining extent of Ac. 2.05 2/3 cents was not cleared by the plaintiffs.

**11.** According to the plaintiffs, an extent of Ac. 4.96 cents sold by the 1<sup>st</sup> plaintiff to the 2<sup>nd</sup> plaintiff under Exs.A19 and A20 on 29.07.2015 and 30.07.2015 whereas Ex.A8 i.e. report dated 1.10.2015 by the Tahsildar, Visakhapatnam to the Inspector of Police, shows that the 1<sup>st</sup> plaintiff was in possession of Ac. 12.30 2/3 cents after excluding the lands already sold by 1<sup>st</sup> plaintiff to the Lakshmi Technologies Private Limited. As could be seen from the Ex.A8, it is further noticed that the 1<sup>st</sup> plaintiff was having Ac. 2.00 cents of land covered by S.No59/3P of Marripalem vide document No. 1788/11 dated 28.06.2011 (column No.14) but no such document filed before

this court. The arguments of the plaintiff's counsel that this report was not yet challenged shall not be a ground to consider this document to hold that it reflects the actual extent of the land in possession of plaintiffs, in the absence of examining such issuing authority. More so as rightly argued by the defendant's counsel Ex.A8 shall not be the conclusive proof to accept the so called lawful possession of the plaintiffs over the suit schedule property in the light of the above ambiguity. Thus, plaintiffs have failed to establish lawful possession over the entire extent Ac. 10.30 2/3 cents of plaintiff schedule land based on their title, which is vaguely described in the plaintiff schedule.

**12.** While the initial legal burden lies upon the plaintiffs to prove their lawful possession in a suit for bare injunction, when defendant set up a rival claim of title and assert possession, a secondary evidential burden shifts on to the defendants 1 to 8 to substantiate those assertions as and when plaintiffs discharged their initial evidential burden. DWs.1 to 3 were cross examined by the plaintiffs wherein they admitted that plaintiffs were in possession of suit schedule property till the year 2015. It is the contention of the defendants that they were in peaceful possession and enjoyment till 2015, when the plaintiffs' allegedly dispossess them. Despite

asserting title, the defendants did not file a counter claim or independent suit for declaration of title. Mere assertion of title in a written statement without pursuing it through appropriate legal means carries a little evidential value. The defendants heavily relied on Exs.B1 to B8. Among them Ex.B3 is an unregistered will allegedly bequeathed Ac. 6.37 cents of the land but it was not proved by examining one of its attesting witnesses as required under Section 68 of Indian Evidence Act. Though DW.2 mentioned in her chief examination affidavit about the other wills executed by the other vendees, those are not filed into the court despite pleading. DW.3 though initially supported the defendant's possession, in the cross examination he clearly admitted that defendants' possession was lost by the year 2015. No document was filed by the defendants 1 to 8 to show their possession for the land in an extent of Ac. 22.27 cents in 10 items as shown in their written statement.

**13.** In a suit for injunction the plaintiffs must succeed on the strength of their own case not on the weakness in the defendants' case. However, when the defendants positively asserted title and prior possession and that assertion forms the basis of their defense, rebuttedly evidential burden arises under Section 101 to 103 of Indian Evidence Act on them. In this case having pleaded ownership,

inheritance and prior possession the defendants' had a corresponding duty to produce reliable evidence to substantiate their claims. However, no registered title deeds tracing title from their ancestors to them was filed. Thus the defendants assertion their title or possession are unsupported by credible documents and nutralized by their own witnesses admissions. Yet, their evidenciary lapses does not shift the plaintiffs off their burden, whose case still hinges of proving specific lawful and identifiable possession over the vague schedule land which they failed to do so. Hence, even though defendant's of title and past possession are not proven to the required standard, their failure does not entitle the plaintiffs to a injunction for the reason, plaintiffs' abandoned the declaratory relief and failed to co-relate their title deeds with the suit schedule. Thus plaintiffs primary legal burden remain unfulfilled.

**14.** When plaintiffs themselves abandoned a declaratory relief after adverse orders in the Writ Petitions (Ex.A21), the present suit is no longer maintainable in its equivalent form. In the absence of declaration of title, perpetual injunction cannot be granted where serious dispute of title and identity exists. In **Anathula Sudhakar Vs. P.Buchi Reddy (Dead) by L.Rs. and others** reported in **2004 7 SCC 713**, the Hon'ble Supreme Court clearly held that "Where the

title is not clear or seriously disputed and there is a cloud over the title, the appropriate remedy is to file a suit for declaration and not a suit for bare injunction". The plaintiffs after abandoned declaration relief cannot now seek to protect their possession without establishing clear title or specific co-relation of their title deeds to the suit land. Accordingly, this issue answered against the plaintiffs.

**ISSUE No.3 :**

**15.** In view of the foregoing discussion and in the light of the inconsistent documentary evidence, non identifiability of the schedule, abandonment of Key reliefs and failure to prove clear lawful possession by the plaintiffs, the equitable relief of perpetual injunction shall not be granted. Accordingly, this issue answered against the plaintiffs.

**ISSUE No.4 :**

**16.** In the result, suit is dismissed against defendants 1 to 8. No costs as to awarded in the circumstances of the case. Relief sought against defendants 9 and 10 abandoned by plaintiffs.

Dictated to the Stenographer Gr.I, transcribed by him, corrected and pronounced by me in the open court this day 05<sup>th</sup> day of August, 2025.

**Sd/ P. SRI SATYA DEVI**  
XI Additional District Judge,  
Visakhapatnam.



**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

**FOR PLAINTIFFS:**

PW.1: Prakash Kumar Mohtra

PW.2: Deepak Kumar Tiwary

PW.3: R. Mohan Reddy

**FOR DEFENDANTS:**

DW.1: B. Venkata Ramana

DW.2: A. Hema Latha

DW.3: Kinthali Satyanarayana

**LIST OF DOCUMENTS MARKED**

**FOR PLAINTIFFS:**

Ex.A1 is the notarized copy of certificate of incorporation of the 1<sup>st</sup> plaintiff company.

Ex.A2 is the copy of the G.O.Ms.No.249/2014, dated 11.12.2014.

Exs.A3 and A4 are the registered sale deeds bearing document Nos.2639/63, 2640/62, dated 09.12.1963.

Exs.A5 and A16 are the proceedings initiated by the 1<sup>st</sup> plaintiff complaining the fabrication of GPAs by defendants 1 to 8 and action by the concerned investigation agency as well as the revenue officials.

Ex.A17 is the original electricity bill with receipt dated 08.12.2015.

Ex.A18 is the original telephonic bill along with receipt, dated 05.06.2015.

Exs.A19 and A20 are registered conveyance deed executed by PW.3 in favour of 2<sup>nd</sup> plaintiff under document No.2709/2015 and 2790/2015 dated 30.07.2015.

Ex.A21 is Certified copy of Writ Petition No. 15418 and 27269 of 2015 of Hon'ble High Court of A.P., dt. 30.04.2022

Exs.A22 to A33 are the copies of the registered sale deeds in favour of the 1<sup>st</sup> plaintiff right from the year 1964 to 2011 (All these documents compared with the originals while admitting the original).

**FOR DEFENDANTS:**

Exs.B1 and B2 are certified copies of the letter dated 22.01.2015 issued by the Joint Sub Registrar, Visakhapatnam with regard to document bearing Nos. 2639/1963 and 2640/1963.

Ex.B3 is the Original will dated 20.01.2015 executed in favour of 3<sup>rd</sup> defendant.

Exs.B4 to B6 are Certificates issued by II Town Police Station, Srikakulam dated 11.11.2015 about missing of the original sale deeds.

**Sd/ P. SRI SATYA DEVI**  
XI Additional District Judge,  
Visakhapatnam.

