

HEADING OF DECISION IN A CIVIL SUIT
IN THE COURT OF CIVIL JUDGE (JR. DIVN.), BHUBANESWAR

Present: Shri Subhankar Mishra, B.A, LL.B(HONS)
Civil Judge, Bhubaneswar

C. S. No. 920/2016

Sri Nanda Kishore Swain, aged about 39 years,
S/o- Durga Charan Swain,
resident of At-Plot No.65, Bhimpur,
Aerodrum Area, P.O-Palaspalli,
P.S.-Air Field, Bhubaneswar,
Dist.-Khordha, Odisha.

... Plaintiff

- **Versus** -

Gitanjali Sethi, aged about 25 years,
D/o- Brundaban Sethi,
Vill-Alisisasan Samil Dihasahi, P.O-Darada,
P.S-Balipatna, Dist-Khordha, Odisha.

... Defendant

Counsel for the plaintiff: M/s. H.P. Das
& Associates.

Counsel for the defendant: None

Date of argument: 04.07.2018

Date of judgment: 07.07.2018

J U D G M E N T

1 The plaintiff has brought the suit praying for a decree for

permanent injunction, restraining the defendant and her men, agents, followers, masons, labourers from, in any way, interfering in the peaceful possession of the plaintiff over the suit land or any part thereof and other reliefs.

2 The brief fact of the plaintiff's case is that the plaintiff has purchased the suit property appertaining to Khata No.461/44, Plot No.482, Area- Ac.0.18 decs. of Mouza-Alisisasan from the original recorded owner Pitabasa Baral vide two Registered Sale Deeds bearing No.11091101207 dtd.23.08.2011 and 11091100957 dtd.13.06.2011 respectively. The plaintiff is in possession over the suit property since the date of his purchase. He has mutated the property in his name vide Mutation Case No.1789/11 and obtained Mutation R.O.R. bearing Khata No.461/104 and Plot No.482/1674, Area-Ac.0.160 decs. The defendant has constructed one storied building over the rest portion of Plot No.482 i.e. Ac.0.02 decs. and he has been residing over there. On 24.04.2016 the plaintiff came to know that the defendant is trying to construct a boundary wall encroaching upon the land of the plaintiff. The plaintiff apprehends that taking the undue advantage of his absence the defendant succeeds his attempt to encroach the suit land. Hence, the suit.

3 The suit has proceeded ex-parte against the defendant.

4 In order to substantiate his case the plaintiff has

examined himself as Pw1 and has relied upon five documents marked as Ext.1 to Ext.5.

5 The examination-in-chief of the plaintiff is in exact terms with his pleading. This is a suit for permanent injunction simplicitor. The plaintiff has filed two Sale Deeds marked as Ext.1 & Ext.2, through which his claim of title over area of Ac. 0.16 decs. from total area of Ac.0.18 decs. of Plot No.482. The rent receipts marked as Ext.4, 4/a, 4/b respectively concretizes his claim of possession over the area of Ac.0.16 decimals. He has also proved his bonafide by getting suit land mutated by obtaining the R.O.R. Marked as Ext.3 here. When the title of possession of the plaintiff over the suit land is undisputed and he is apprehending the breach of his right over his property by the defendant, he has every right to protect it through the law. Further, he claimed that the defendant is trying to encroach upon the suit land, which is also undisputed.

The suit is not barred by any law and the plaintiff has brought the suit for enforcement of his legal right. Hence, the suit is maintainable and he has cause of action to file the suit. In view of above discussion, it is clear that the plaintiff is entitled to relief claimed for. Hence, the Court orders:

ORDER

The suit be and the same stands decreed ex-parte against the defendant. The defendant and her men, agents, followers,

masons, labourers are hereby permanently restrained to interfere in the peaceful possession of the plaintiff over the suit land. No cost.

Pronounced in the open Court on this the 7th day of July, 2018 under my hand and seal of the Court.

Dictated and corrected

Civil Judge, Bhubaneswar.

List of witness examined on behalf of the plaintiff:

P. W. 1:- Nanda Kishore Swain.

List of witness examined on behalf of the defendant:

N o n e.

List of documents marked as exhibits on behalf of the plaintiff:

Ext1:-R. S. D. No. 11091100957 dtd. 13. 06. 2011.

Ext2:-R. S. D. No. 11091101207 dtd. 23. 08. 2011.

Ext3:-Mutation R. O. R. of Khata No. 461/104.

Ext4 to 4/b:-Rent receipts for the year 2014-15,
2015-16 and 2016-17.

Ext5:-Deposit receipt in OLR Case No. 64/2016.

List of documents marked as exhibits on behalf of the defendants:

N i l.

Civil Judge, Bhubaneswar.