

**IN THE COURT OF THE ADDITIONAL JUNIOR CIVIL JUDGE –CUM-
XVII METROPOLITAN MAGISTRATE, CYBERABAD: AT
RAJENDRANAGAR.**

Present: Sri C. Vikram,
Addl. Junior Civil Judge,
Rajendranagar.

Monday, the 07th day of November, 2016

O.S. No. 78 of 2013

Between:

Mogli Pandu S/o: Chennaiah,
Aged about 45 years, Occ: Employee,
R/o: H.No.8-3-228/363/1/A, Rahmathnagar,
Yousufguda, Hyderabad.

...Plaintiffs

AND

1. Smt. Uma Maheshwari W/o: Sri V.V. Narayanudu,
Aged: Major, Occ: Household, R/o: 10-4-13/11A/33,
M.G. Nagar, Hyderabad.
2. Sri Aananthasayanam Raju S/o: Sri M. Subbarama Raju,
Aged: Major, Occ: Business, R/o: Tallapaka village,
Rajampet Mandal, Kadapa District.
3. G. Kavitha D/o: G. V. Krishna Rao,
Aged: Major, Occ: Household, R/o: H.No.130/2RT,
Vijayanagar Colony, Hyderabad.
4. E. Venkateshwar Rao S/o: Ramanuja Rao,
Aged: Major, Occ: Business, R/o: H.No.130/2RT,
Vijayanagar Colony, Hyderabad.

...Defendants

This suit is coming before me for final hearing in the presence of Sri B. Bal Reddy, Advocate for the Plaintiff and of M/s L. Shiva Charan, Advocates for the Defendants and the matter having been stood over for consideration till this day, this Court made the following.

JUDGMENT

1. This is a suit filed for perpetual injunction, praying this court to grant perpetual injunction, restraining the defendants from causing

interference into the possession of plaintiff over the suit schedule property i.e. all that part and parcel of open Plot bearing No.24 (Part) in Survey No.9/A/1, admeasuring 200 Sq. yards, situated at Gandamguda Village, Rajendranagar Mandal, R.R. District (hereinafter referred to as suit schedule property).

2. In plaint, it is submitted that, the plaintiff is the owner and possessor of the suit schedule property. The mode of acquisition of suit property by the plaintiff and his predecessors in title is mentioned as here under. Initially, one Bantu Venkatamma was the original pattedar and possessor of the suit property, the said Bantu Venkatamma has transferred suit property to T. Madhavi, by way of sale, under registered sale deed bearing document No.2407/2004. Thereafter, the said T. Madhavi has transferred suit schedule property to A.L. Sanjay Kumar, by way of sale, under registered sale deed bearing document no.7135/2005. The said A.L. Sanjay Kumar further transferred suit schedule property to T. Narsimha Chary, by way of sale, under registered sale deed bearing document No.10801/2005, the said T. Narsimha Chary has appointed Vasanth Rao Gajre as GPA, by way of executing GPA vide document No.2409/2006. Thereafter, the said T. Narsimha Chary through his GPA Vasanth Rao Gajre has transferred suit schedule property in favour of G. Venkata Swamy by way of sale under registered sale deed bearing document No.5853/2006. Thereafter, the said G. Venkata Swamy has transferred suit property to K. Narsimha Rao by way of sale under registered sale deed bearing document No.6631/2006. Finally, the said K. Narsimha Rao has transferred suit schedule property in favour of plaintiff by way of sale under registered sale deed bearing document No.3065/2009. Since then, the plaintiff is in possession over the suit

property. While this being so, the defendants with the help of police tried to interfere with the possession of plaintiff, which constrained plaintiff to file W.P. No.33369/2010, wherein it was ordered to police not to interfere in civil disputes. In spite of that, on 24.04.2013 the defendants attempted to grab the suit property, but somehow, the plaintiff could resist them with the help of local aids. Even then, the defendants left the premises by threatening plaintiff that they will dispossess him on one or the other pretext. Therefore, prayed to decree the suit.

3. The written statement filed by defendant No.3 is adopted by defendant Nos.1, 2 & 4, as wherein, the defendant Nos.1 to 4 denied the case of the plaintiff in toto, and it is submitted that, it is the defendants who were in possession of the suit property, but not the plaintiff. It is submitted that one Late Yellaiah, Kistaiah and Gandaiah are the sons of Late Bantu Laxmaiah, the said Bantu Laxmaiah along with his sons, were jointly owning ancestral property admeasuring Ac.03-35 guntas in Survey No.9/A, situated at Gandamguda Village, Rajendranagar Mandal, R.R. District. Later, the said Yellaiah died leaving behind his wife Bantu Venkatamma and said three sons as his legal heirs. After his death, the sons of Bantu Yellaiah, his own brothers by names Bantu Kishtaiah, Bantu Gandaiah and Bantu Balram, has executed a registered irrevocable GPA bearing document No.1179/1993, dated 08.06.1993 in favour of one Mr. R. Jagannadham Goud S/o Late Papaiah Goud, with respect to land to an extent of Ac.02-35 guntas, out of Ac.03-35 guntas. With the powers conferred under GPA, the said Mr. R. Jagannadham Goud has sold the land covered under GPA. Thus, Bantu Kishtaiah, Bantu Gandaiah and Bantu Balram registered by their GPA Mr. R. Jagannadham Goud has transferred Plot bearing No.26 in survey No.9/A, admeasuring 261 Sq.

yards in favour of defendant No.1/Smt. Uma Maheshwari through registered sale deed bearing document No.1176/1996, dated 24.04.1996. Likewise, the said Batu Kishtaiah, Bantu Gandaiah and Bantu Balram registered by their GPA Mr. R. Jagannadham Goud has transferred Plot No.27 in Survey No.9/A, admeasuring 300 Sq. yards to E. Venkateshwar Rao/defendant No.4 under registered sale deed bearing document No.1057/1995. Likewise, the said Bantu Kishtaiah, Bantu Gandaiah and Bantu Balram registered by their GPA Mr. R. Jagannadham Goud has also, sold Plot No.25 in Survey No. 9/A, to an extent of 307 Sq. yards to defendant No.3/G. Kavitha under registered sale deed bearing document No.1056/1995, dated 28.01.1995. Similarly, the said Bantu Kishtaiah, Bantu Gandaiah and Bantu Balram registered by their GPA Mr. R. Jagannadham Goud has sold Plot No.28, admeasuring 300 Sq. yards to P. Venu Gopal Rao through a registered sale deed bearing document No.10341/1994, dated 26.12.1994. Similarly, the said Bantu Kishtaiah, Bantu Gandaiah and Batu Balram registered by their GPA Mr. R. Jagannadham Goud has sold Plot No.24 in Survey No.9/A, admeasuring 200 Sq. yards to defendant No.2/Aananthawayanam Raju under registered sale deed bearing document No.10815/1993, dated 04.12.1993. Thus, the defendant Nos.1 to 4 and Mr. P. Venu Gopal Rao were inducted into possession and enjoyment of their respective Plots. It is submitted that, the defendants being busy of their occupation and employment, were not available at their respective Plots. Taking advantage of this, the wife of Late Bantu Yellaiah by name Bantu Venkatamma and her sons tried to interfere into the peaceful possession of defendant Nos.1 to 4 over the respective Plots. Upon that, the defendant Nos.1 to 4 and Mr. P. Venu Gopal Rao has filed suit for perpetual injunction vide O.S. No.27/2003 along with I.A. No.43/2003 for temporary injunction against Bantu

Venkatamma and her three sons, wherein the suit property Plot No.24, was one among the other schedule properties. It is further submitted that, the said Bantu Venkatamma and her sons have filed written statement denying the averments of the plaint vide O.S. No.27/2003 and has setup their own claim. In the meanwhile, due to establishment of additional courts, the said matter vide O.S. No.27/2003 was transferred to the Hon'ble Addl. Junior Civil Judge –cum- XVII Metropolitan Magistrate, Cyberabad at Rajendranagar and renumbered as 392/2008. Finally, the said suit was disposed off and a decree of perpetual injunction was granted in favour of defendant Nos.1 to 4 and Mr. P. Venu Gopal Rao against said Bantu Venkatamma and her three sons vide decree and judgment, dated 29.07.2009.

3(a). It is further, submitted that, the said decree vide O.S. No.27/2003 (old) and renumbered as 392/2008 (new), was not challenged, by filing an appeal, and it has become final, binding of Bantu Venkatamma and her three sons. Having well known about the decree, the said Bantu Venkatamma and her three sons developed the grudge and being well aware that the present suit property is the subject matter of said suit vide O.S. No.27/2003 (res-subjudice), has created a sham document. It is further submitted that, the said sham document and nominal fabricated document, said to have executed by Bantu Venkatamma i.e. document No.2407/2004, was executed during the pendency of suit against them vide O.S. No.27/2003, wherein the present suit property was none other than the subject matter of the O.S.No.27/2003. It is submitted that, during pendency of said suit vide O.S. No.27/2003 the exparte injunction orders were in force, protecting the possession of plaintiff therein (defendant No.2 herein), over the suit property, the question of transferring the possession and title of Bantu Vekatamma in favour of T. Madhavi, do not arise.

3(b). The defendants further submitted that, in view of the attempts made by henchmen like plaintiff herein, the defendant Nos.1 to 4 have filed different suits vide O.S. Nos.2268/2010, 2269/2010 & 2270/2010, and the same are pending.

3(c). It is submitted that, the plaintiff suppressing all these facts, is trying to demonstrate that he has derived of title and possession from Bantu Venkatamma to T. Madhavi to A.L. Sanjay Kumar to T. Narasimha Chary, followed by G. Venkata Swamy, K. Narasimha Rao. Further, the plaintiff on the basis of a sham and nominal fabricated documents created over property, which infact is in possession of defendants, approached this court with unclean hands. Hence, prayed to dismiss the suit.

4. Based on the respective pleadings, the following issues were settled for trial:

1. Whether the plaintiff is in legal possession of the suit schedule property as on the date of filing of the suit?
2. If so, whether the plaintiff is entitled to the relief of perpetual injunction claimed by him?
3. To what relief?

5. In order to substantiate respective claims, plaintiff examined himself as Pw1 and got marked Exs.A1 to Ex.A8. Whereas, the defendant No.2 examined himself as Dw1 and got marked Ex.B1 to Ex.B7.

6. Heard arguments on both sides.

Point-1: Whether the plaintiff is in legal possession of the suit schedule property as on the date of filing of the suit?

Point-2: If so, whether the plaintiff is entitled to the relief of perpetual injunction claimed by him?

7. Since, both the issues involve common set of facts, to avoid repetition, both issues are answered together.

8. Before entering into the appreciation of evidence led by both sides, for vivid discussion, the admitted facts from the pleadings and the evidence led by both sides are postulated below.

Admitted facts on record:

(a). One Bantu Laxmaiah and his three sons namely Yellaiah, Kistaiah and Gandaiah, the said Bantu Laxmaiah, were jointly owning ancestral lands admeasuring Ac.03-35 guntas in Survey No.9/A, situated at Gandamguda village, Rajendranagar Mandal, R.R. District.

(b). Later, Yellaiah died by leaving behind his legal heirs, i.e., his wife (namely Bantu Venkatamma) and her three sons (namely Bantu Balram, Bantu Eshwaraiah and Bantu Laxman).

(c). The present suit Plot is the outcome of the said land (i.e. admeasuring Ac.03-35 guntas) in Survey No.9/A, situated at Gandamguda village, Rajendranagar Mandal.

Disputed facts:

9. It is the argument of the learned counsel for the plaintiff that he is in possession over the suit property and he acquired the same by way of purchase from his vendor by name K. Narasimha Rao who obtained the same. It is the argument that Bantu Venkatamma being the original pattedar of suit property sold to T. Madhavi, who in turn sold to A.L. Sanjay Kumar. Thereafter, the said A.L. Sanjay Kumar sold to T. Narasimha Chary, and T. Narasimha Chary through his GPA Vasanth Rao Gajre sold

to G. Venkata Swamy, and G. Venkata Swamy has sold to K. Narasimha Rao, and from K. Narasimha Rao, this plaintiff has purchased the suit property and he is continuing his possession over the said suit property.

10. It is the argument of the learned counsel for the defendants that, the said Ac.03-35 guntas in survey No.9/A, situated at Gandhamguda village, Rajendranagar Mandal, R.R. District, was an ancestral property owned jointly by the sons of Late Bantu Laxmaiah by names Yellaiah, Kistaiah and Gandaiah. After the death of Yallaiah, the said Kistaiah and Gandaiah (having equal right and share over said Ac.03-35 gutas) along with the elder son of Yellaiah i.e. Balram, through their GPA by name R. Jagannadham Goud, has sold Plot No.26 to Smt. Uma Maheshwari/defendant No.1. Likewise, sold Plot No.25 to G. Kavitha/defendant No.3. Similarly, sold Plot No.27 to E. Venkateshwar Rao/defendant No.4 and has also sold Plot No.24 (suit property) to Aananthasayanam Raju/defendant No.2. It is further argued that, defendant No.2 after acquiring Plot No.24 has fenced. But, due interference from Bantu Vekatamma and her three sons, he filed a suit vide O.S. No.27/2003 and renumbered as 392/2008. Wherein, a decree was passed in his favour, restraining Bantu Vekatamma and her sons from interfering into his possession. It is further argued that, the said Bantu Venkatamma inspite of filing written statement and contesting the said matter in O.S. No.27/2003, during its pendency, has created sham documents bearing No.1381/2003 dated 27.02.2003 and 2407/2004 dated 17.03.2004 with respect to the Plot No.24. Therefore, prayed to dismiss the suit.

11. In support of plaintiff case, he relied upon Exs.A1 to Ex.A8. Ex A1 is Sale deed bearing document No.3065/2009, dated 14.09.2009

executed by K. Narasimha in favour of Mogli Pandu. Ex A2 is Sale deed bearing document No.6631/2006, dated 03.05.2006 executed by G. Venkata Swamy in favour of K. Narasimha Rao, Ex A3 is Sale deed bearing document No.5853/2006, dated 17.04.2006 executed by T. Narsimha Chary represented by his AGPA holder Vasant Rao Gajre in favour of G. Venkata Swamy. Ex A4 is Registered AGPA bearing document No.2409/2006, dated 20.02.2006 executed by T. Narsimha Chary in favour of Vasant Rao Gajre. Ex A5 is Sale deed bearing document No.10801/2005, dated 15.10.2005 executed by A.L. Sanjay Kumar in favour of T. Narsimha Chary. Ex A6 is Sale deed bearing document No.7135/2005, dated 04.07.2005 executed by Smt. T. Madhavi in favour of A.L. Sanjay Kumar. Ex A7 is Sale deed bearing document No.2407/2004, dated 17.03.2004 executed by Smt. Bantu Venkatamma in favour of Smt. T. Madhavi. Ex A8 is C.C. of plaint in O.S.No.2270/2010 on the file of the VIII Senior Civil Judge, R.R. District at L.B. Nagar.

12. In support of defendants case, they relied upon Exs.B1 to Ex.B7. Ex B1 is C.C. of sale deed bearing document No.1176/1996, dated 24.04.1996 executed by Bantu Kistaiah and two others in favour of Smt. Uma Maheshwari. Ex B2 is C.C. of sale deed bearing document No.1056/1995, dated 28.01.1995 executed by Bantu Kistaiah and two others represented by their GPA holder R. Jagannadham Goud I favour of G. Kavitha. Ex B3 is C.C. of sale deed bearing document No.1057/1995, dated 28.01.1995 executed by Bantu Kistaiah and two others represented by their GPA holder R. Jagannadham Goudin favour of E. Ventateshwar Rao. Ex B4 is Registered AGPA bearing document No.1381/2003, dated 27.02.2003 executed by Smt Bantu Venkatamma in favour of T. Sudhakar Goud. Ex B5 is C.C. of order in I.A. No.43/2003 in O.S. No.27/2003 on the

file of the Addl. Junior Civil Judge, R.R. District, dated 06.04.2005. Ex B6 is C.C. of sale deed bearing document No.10815/1993, dated 04.12.1993 executed by Bantu Kistaiah and two others represented by their GPA holder R. Jagannadham Goud in favour of M. Ananthasayanam Raju. Ex B7 is C.C. of judgment and decree in O.S. No.392/2008 on the file of the Add. Junior Civil Judge –cum- XVII Metropolitan Magistrate, Cyberabad at Rajendranagar, dated 29.07.2009.

13. Coming back to appreciation of evidence, in order to substantiate his case, the plaintiff examined himself as Pw1 and got marked Exs.A1 to Ex.A8. Pw1 has reiterated the contents of his plaint and during cross-examination he admitted that in Survey No.9/A, the total extent of land was around Ac.03-35 guntas, to which Kistaiah, Gandaiah and Yellaiah have equal rights over said property and each person will get around Ac.01-11 ½ gutnas. He further admitted that, Yallaiah has a wife by name Bantu Venkatamma and three sons. Pw1 readmitted that, the said Bantu Venkatamma and her three sons have equal rights over Ac.01-11 ½ gutnas and Bantu Vekatamma will get around Ac.0-13 guntas. With the admissions made by Pw1, it is vivid that the total land in Survey No.9/A was around Ac.03-35 guntas. It is a place to mention that, neither party has denied to the fact that, land in Survey No.9/A was around Ac.03-35 guntas. Therefore, it is settled that, the land in Survey No.9/A which was around Ac.03-35 guntas. It is also undisputed that, the three sons of Late Laxmaiah i.e. Yellaiah, Kistaiah and Gandaiah were having equal rights over the said Ac.03-35 guntas. By virtue of admission made by Pw1, it is made clear that the sons of Bantu Laxmaiah i.e. Kistaiah, Yellaiah and Gandaiah had equal rights over said property, which goes to show that each one will get around 1/3rd of 3.35 guntas. Therefore, each should get

Ac.01-11 ½ guntas. According to the knowledge of Pw1, no partition was effected among Kistaiah, Yellaiah and Gandaiah. It is also a settled fact on record that, Yellaiah died by leaving behind his wife Bantu Venkatamma and her three sons i.e. Balram, Eshwaraiah and Laxman as his legal heirs.

14. It is the argument of the learned counsel for the defendants that, due to the interference by Bantu Vekatamma and her three sons over suit Plot, defendant has filed a suit vide O.S. No.27/2003 renumbered as 392/2008. Wherein, the Hon'ble court has ordered temporary injunction in I.A. No.43/2003, and finally, the main suit was decreed in favour of defendant Nos.1 to 4 against Bantu Vekatamma and her three sons. The said decree was pertaining to certain properties covering preset suit property. In support of this argument, the defendants relied upon Ex.B5/C.C. of order in I.A. No.43/2003 in O.S. No.27/2003 & Ex.B7/C.C. of judgment and decree in O.S. No.382/2008. The evidence of Dw1 coupled with Ex.B5 & Ex.B7, has substantially established the factum of filing suit vide O.S. No.27/2003 against Bantu Venkatamma and her three sons, wherein Plot No.24 was held to be in possession of defendant No.2. It is also apparent, that in said suit, Bantu Vekatamma has filed a written statement and the said suit was decreed against Bantu Venkatamma in favour of defendant Nos.1 to 4 with respect to the suit schedule 'A', 'B', 'C' & 'D' properties. During cross-examination of Dw1, nothing elicited against to this piece of evidence. Therefore, it is vivid that the defendant Nos.1 to 4 has filed a suit against Bantu Venkatamma, wherein the suit schedule 'C' property is Plot No.24 (suit property herein), and the record reveals that a temporary injunction was ordered in favour of defendant Nos.1 to 4 herein (plaintiff Nos.1 to 4 therein). Finally, the said suit was decreed in favour of

defendant Nos.1 to 4 herein (plaintiff Nos.1 to 4 therein), against Bantu Vekatamma and her three sons.

15. It is the another argument of the defendants that, during the pendency of said suit, Bantu Vekatamma after filing written statement in said suit, has deliberately created sham documents bearing No.1381/2003 dated 27.02.2003 and 2407/2004 dated 17.03.2004, with respect to the schedule 'C' property of judgment and decree in O.S. No.27/2003 and renumbered as 392/2008. In support of his argument, the defendant relied upon the dates on which documents bearing No.1381/2003 dated 27.02.2003 and 2407/2004 dated 17.03.2004 are executed. Apparently, from Ex.B5 & Ex.B7, the suit vide O.S. No.27/2003 was filed on 07.01.2003 and the same was numbered on 08.01.2003. Therefore, the documents Ex.A7/Sale deed bearing document No.2407/2004 and Ex.B4/registered AGPA bearing document No.1381/2003, which are executed on 17.03.2004 and 27.02.2003 respectively are 2nd and subsequent in time. This goes to show that, the execution of Ex.B4 and Ex.A7 by Bantu Venkatamma was apparently during the pendency of suit vide O.S. No.27/2003. Besides, the contention of written statement available under Ex.B7, did not whisper her claim with respect to the transactions available under Ex.B4 and Ex.A7. Therefore, it is vivid that the documents executed by Bantu Venkatamma i.e. Ex.B4 & Ex.A7, were executed during the pendency of suit vide O.S. No.27/2003, filed by defendant Nos.1 to 4 herein (plaintiff Nos.1 to 4 of O.S. No.27/2003), against Bantu Venkatamma.

16. At this juncture, it is essential to note that, ***In Anathula Sudhakar Reddy Vs. P. Buchi Reddy reported in 2008 (5) SCJ 359*** it was held that

“where the plaintiff is in possession, but his title to the property is in dispute, or under a cloud, or where the defendant asserts title thereto and there is also a threat of dispossession from defendant, the plaintiff will have to sue for declaration of title and the consequential relief of injunction. Where the title of plaintiff is under a cloud or in dispute and he is not in possession or not able to establish possession, necessarily the plaintiff will have to file a suit for declaration, possession and injunction”.

17. The observations in Para 14 are also relevant because obviously these schedule lands in present case is vacant land. These observations in para 14 is extracted below:

But what if the property is a vacant site, which is not physically possessed, used or enjoyed? In such cases the principle is that possession follows title. If two persons claim to be in possession of a vacant site, one who is able to establish title thereto will be considered to be in possession, as against the person who is not able to establish title. This means that even though a suit relating to a vacant site is for a mere injunction and the issue is one of possession, it will be necessary to examine and determine the title as a prelude for deciding the de jure possession. In such a situation, where the title is clear and simple, the court may venture a decision on the issue of title, so as to decide the question of de jure possession even though the suit is for a mere injunction. But where the issue of title involves complicated or complex questions of fact and law, or where court feels that parties had not proceeded on the basis that title was at issue, the Court should not decide the issue of title in a suit for injunction. The proper course is to relegate the plaintiff to the remedy of a full-fledged suit for declaration and consequential reliefs.

18. Para 14 of **Sudhakar's** case which I have referred to above is quite clear that title can be gone into when the property is a vacant site because possession follows title.

19. It is also pertinent to note that, the ground taken and the stands taken by the Bantu Venkatamma in support of her title and possession over Ac.01-13 guntas in Survey No.9/A, under her written statement filed in O.S. No.27/2003, and the history of her title mentioned under Ex.A7/sale deed bearing document No.2407/2004 dated 17.03.2004 is one in the same. It is pertinent to note that, to prove her contentions that are taken in W.S. of O.S. No.27/2003, the said Bantu Venkatamma did not come forward and the said suit vide O.S. No.27/2003 was decreed against her. Since, she did not come forward to prove her contention is regard to the possession and title, which resulted into a decree against her, which was not even appealed later by Bantu Venkatamma, such alleged fact and contentions of Bantu Venkatamma cannot be taken as settled fact for the simple reason that, the party who avoids to prove the fact which was contended by them, throws a clear inference as to non-availability of evidence in support of such alleged facts.

20. It is the other argument of the defendants that the plaintiff has approached this court with unclean hands. In support of this argument defendants relied upon, a transaction available under Ex.B4. The document Ex.B4 depicts an agreement of sale –cum- GPA executed by Bantu Venkatamma in favour of T. Sudhakar Goud bearing document No.1381/2003, dated 27.02.2003 with respect to the Plots bearing Nos.22, 23 & 24 in Survey No.9/ /1. It is pertinent to note that, during cross-examination of Pw1 when the same is put to Pw1, Pw1 has expressed ignorance as to the transaction available under Ex.B4.

21. It is the argument of the learned counsel for the plaintiff that, the defendants are not in possession over the suit property and in support of his argument and he relied upon Ex.A8/C.C. of plaint in O.S. No.2270/2010, the document Ex.A8 depicts that the defendant No.2 and G. Kavitha has filed a suit for recovery of possession from some third parties, wherein Plot No.24, admeasuring 200 Sq. yards in survey No.9/A was one of the suit schedule properties. In this regard, Dw1 also made an admission by stating that he has filed a suit for recovery of possession of the present suit Plot. With this it is vivid that, the defendants is not in possession over the suit property. It is pertinent to note that, if the argument of the plaintiff is taken into consideration, more particularly when plaintiff relied upon Ex.A8, it is also a place to take note of the fact that Ex.A8 also throws light on the allegation and fact that some third parties are in possession over the suit Plot. Ex.A8 do not speak about plaintiffs possession over suit schedule property. Therefore, without attributing much from Ex.A8, it is also essential to recall, that the plaintiff has establish on the strength of his own case without relying or depending on the upon the weaknesses of defendants. Thus, it is vivid that the document Ex.A8 has nothing much to deal with the possession of plaintiffs over suit property.

22. Coming back to the possession factor, except the sale transactions, i.e. right from the Bantu Venkatamma till the plaintiff herein, the plaintiff did not file any scrap of title in support of his possession over suit property. Since, the flow of title and possession demonstrated by the plaintiff is denied by defendants, and by virtue of the judgment and decree available under Ex.B5/C.C. of order in I.A. No.43/2003 in O.S. No.27/2003 and Ex.B7/C.C. of judgment and decree in O.S. No.392/2008 against the person (Bantu Venkatamma), from whom the plaintiff demonstrated the

flow of possession, the flow of demonstrated by plaintiff, is found at serious dispute. Besides, it is also a fact that the said document Ex.A7/sale deed bearing document no.2407/2004 dated 17.03.2004 has come into existence, during the pendency of said suit vide O.S. No.27/2003. Wherein, temporary injunction order was existing against Bantu Venkatamma under Ex.B5. Further, the decree that found to have passed against Bantu Venkatamma has created a serious cloud over the title of Bantu Venkatamma, from whom the plaintiff claimed and his title and possession over suit property. Even otherwise, by virtue of the admission made by Pw1 expressing that the land in Survey No.9/A is around Ac.03-35 guntas, out of which the sons of Bantu Laxmaiah i.e. Yellaiah, Kistaiah and Gandaiah has got equal shares, and that there was no partition effected among themselves, goes to show that there is a considerable right of Kistaiah and Gandaiah to the extent of their shares. In addition to that, the elder son of Yellaiah and Bantu Venkatamma being the successor and legal heir of Bantu Yellaiah along with Kistaiah and Gandaiah happen to have executed Ex.B1 to Ex.B3 and Ex.B6/C.C. of sale deeds in favour of respective purchasers, more particularly with respect to Plot No.24 has created a serious dispute over the title of Bantu Venkatamma with respect to the suit Plot.

23. At this juncture, by placing reliance on ratio laid in ***Anathula Sudhakar Reddy V. P.Buchi Reddy reported in 2008(5) SCJ 359***, it is observed that, since there is a serious cloud over the title of Bantu Venkatamma from whom the plaintiff claimed his flow of title and possession over the suit property. It is held that, mere suit for injunction is not maintainable without seeking declaration of title. In addition to that, the transactions executed under Ex.B4/registered AGPA bearing document

No.1381/2003 dated 27.02.2003 and Ex.A7/sale deed bearing document No.2407/2004 dated 17.03.2004 by Bantu Venkatamma, during the pendency of suit vide O.S. No.27/2003 (renumbered as 392/2008), that too by avoiding to prove her pleading of acquisition of title and possession over suit property in O.S. No.27/2003, as also created a cloud over the title and possession referred by her over the suit property under Ex.A7.

24. Hence, in view of all the above observations, it is summed up that, the suit plot being vacant land, required adjudication on the principle of 'possession follows title'. Since, the title and its flow claimed by plaintiff, is under the serious cloud due to the reasons stated supra, and in the light of the fact that claim of plaintiff's possession as on the date of filing of suit is not supported by any documentary evidence, it is concluded that, the plaintiff could not substantiate that he is in legal possession of suit property as on the date of filing of the suit. Accordingly, the point No.1 is answered against plaintiff in favour of defendants.

25. Coming to the point No.2, since, plaintiff failed to substantiate his possession over suit property as on the date of filing of suit, it is concluded that the plaintiff is not entitled for relief of perpetual injunction as claimed for. Accordingly, the point No.2 is answered in favour of defendants against plaintiff.

Point-3: To what relief?

26. In the result, the suit of plaintiff is dismissed.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 07th day of November, 2016.

Addl. Junior Civil Judge-cum-
XVII Metropolitan Magistrate,
Cyberabad, at Rajendranagar.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PLAINTIFF:

1. Pw1 – Mogli Pandu

FOR DEFENDANTS:

1. Dw1 – M. Anantha Sayanam Raju

EXHIBITS MARKED

FOR PLAINTIFF:

1. Ex A1 – C.C. of Sale deed bearing document No.3065/2009, dated 14.09.2009 executed by K. Narasimha in favour of Mogli Pandu
2. Ex A2 – C.C. of Sale deed bearing document No.6631/2006, dated 03.05.2006 executed by G. Venkata Swamy in favour of K. Narasimha Rao
3. Ex A3 – C.C. of Sale deed bearing document No.5853/2006, dated 17.04.2006 executed by T. Narsimha Chary represented by his AGPA holder Vasant Rao Gajre in favour of G. Venkata Swamy
4. Ex A4 – C.C. of Registered AGPA bearing document No.2409/2006, dated 20.02.2006 executed by T. Narsimha Chary in favour of Vasant Rao Gajre
5. Ex A5 – C.C. of Sale deed bearing document No.10801/2005, dated 15.10.2005 executed by A.L. Sanjay Kumar in favour of T. Narsimha Chary
6. Ex A6 – C.C. of Sale deed bearing document No.7135/2005, dated 04.07.2005 executed by Smt. T. Madhavi in favour of A.L. Sanjay Kumar
7. Ex A7 – C.C. of Sale deed bearing document No.2407/2004, dated 17.03.2004 executed by Smt. Bantu Venkatamma in favour of Smt. T. Madhavi
8. Ex A8 – C.C. of plaint in O.S.No.2270/2010 on the file of the VIII Senior Civil Judge, R.R. District at L.B. Nagar.

FOR DEFENDANTS:

1. Ex B1 – C.C. of sale deed bearing document No.1176/1996, dated 24.04.1996 executed by Bantu Kistaiah and two others in favour of Smt. Uma Maheshwari
2. Ex B2 – C.C. of sale deed bearing document No.1056/1995, dated 28.01.1995 executed by Bantu Kistaiah and two others represented by their GPA holder R. Jagannadham Goud in favour of G. Kavitha
3. Ex B3 – C.C. of sale deed bearing document No.1057/1995, dated 28.01.1995 executed by Bantu Kistaiah and two others represented by their GPA holder R. Jagannadham Goud in favour of E. Venkateshwar Rao
4. Ex B4 – C.C. of Registered AGPA bearing document No.1381/2003, dated 27.02.2003 executed by Smt Bantu Venkatamma in favour of T. Sudhakar Goud
5. Ex B5 – C.C. of order in I.A. No.43/2003 in O.S. No.27/2003 on the file of the Addl. Junior Civil Judge, R.R. District, dated 06.04.2005
6. Ex B6 – C.C. of sale deed bearing document No.10815/1993, dated 04.12.1993 executed by Bantu Kistaiah and two others represented by their GPA holder R. Jagannadham Goud in

favour of M. Ananthasayanam Raju
7. Ex B7 – C.C. of judgment and decree in O.S. No.392/2008 on the file of
the Addl. Junior Civil Judge –cum- XVII Metropolitan
Magistrate, Cyberabad at Rajendranagar, dated 29.07.2009

Addl. Junior Civil Judge-cum-
XVII Metropolitan Magistrate,
Cyberabad, at Rajendranagar.