

HRSO020017002018



Presented on : 05.09.2018

Registered on : 05.09.2018

Decided on : 22.07.2026

**IN THE COURT OF
Civil Judge (Junior Division), Sonipat
Presided Over by Ms. Sakshi Gupta**

CS/1283/2018

Anil Kumar Podar son of Sh. Hari Shankar Podar S/o Sh. Badri Parshad

Podar R/o House No. 333, Deepali Enclave Pritampura North West Delhi

..... Plaintiff

Versus

1. Kuldeep
2. Pardeep sons of Sh. Chand Ram son of Amar Singh R/o House No.
510, VPO Kanjhawala, Delhi
3. Devender S/o Ram Karan R/o 22/266 Nehru Park, Bahardurgarh
Jhajjar Haryana

.....Defendants

Suit for Permanent Injunction

Present: Sh. R.S. Saroha Advocate for plaintiff
Defendants/counter claimants exparte vide order dated
06.02.2025
(Counter claimants of defendant vide order dated
06.02.2025)

JUDGMENT:

(Sakshi Gupta)
CJ(JD), Sonapat.
UID No. HR0627
22.07.2026

The present suit has been filed by the plaintiff seeking a decree for Permanent Injunction restraining the defendants from creating any hurdle in the construction work of the plaintiff and from dispossessing the plaintiff from the suit land and from interfering into the peaceful possession of the plaintiff over the suit land illegally and forcibly.

Case of the Plaintiffs:

2. Succinctly, the case of the plaintiff is that the plaintiff is the Permanent resident of above mentioned address and are peace loving and law abiding citizen of the country. That the plaintiff with his wife namely Smt. Anita Podar are owners in possession of agriculture land measuring 17K-2M comprised in Khewat No.105min, Khata No.116min, Rect. & Killa No.51//11(7-4), 12 (8-0), 20/1(1-18) and also owners in possession of total land measuring 3K-11M, comprised in Khewat No.283, Khata No.328, Rect. & Killa No.51//19/1/1(3-11), both the lands situated within the revenue estate of village Halalpur, Tehsil and District Sonapat according to Fard Jamabandi for the year 2007-08. It is pertinent to mention here that the wife of the plaintiff has purchased the above noted properties from Giani Devi. etc. with Sh. Kuldeep Singh son Mehar son of Karan Singh resident of Gali No.1, Dayanand Nagar, Bahadurgarh through registered sale deed no.4718 dated 28.6.2013 and through sale deed no.4672 dated 27.6.2013 and after sometime i.e. on dated 30.9.2014 through registered sale deed no.7314, Sh. Kuldeep Singh has sold out his

share out of the above noted lands to the plaintiff and after purchasing the same by the plaintiff and his wife, the mutation No. 5658 dated 07.02.2014, 5659 dated 07.02.2017 and Mutation No. 5687 dated 17.11.2014 was sanctioned in favour of the plaintiff and his wife. That on dated 18.4.2016, the plaintiff filed an application before the Tehsildar, Sonapat to demarcate the above noted lands in dispute, which was marked by the Tehsildar, Sonapat to concerned Halqa Girdawari for demarcation of lands vide order dated and 20.4.2016 after getting the order from Tehsildar, Sonapat with the help total holding machine, the Halqa Girdawar demarcated the suit lands and submitted his report dated 30.4.2016. That after demarcation of the suit lands, the plaintiff with his wife have applied for getting the CLU for building plan before Senior Town Planner, Rohtak Circle, Rohtak and on dated 5.2.2018 vide memo no.SPT(R)/CLU-1005(S)/BP/733 dated 5.2.2018, the District Town Planner, Rohtak has granted approval of building plan for setting up the warehouse in favour of the plaintiff and his wife. Similarly the Town and Country Planning Department, Haryana through Memo No. ST-2383-PA(SN)-2017/7456 dated 21.7.2017 has granted CLU for setting up of warehouse, so it is clear that after purchasing the above noted suit lands, the plaintiff and his wife sanctioned mutation the and proceed the matter before the appropriate authority to establish a warehouse in the suit land being the absolute owners in possession of the suit lands. Moreover the plaintiff has already installed a tube-well in the suit lands. That the

plaintiff and his wife are absolute owners in possession the of the above suit lands and the defendants or any other persons have no right, title or interest in the suit lands. That on dated 2.9.2018, the defendants with other 4-5 unknown unsocial elements reached at the spot along with pistol and used the filthy language against plaintiff and tried to create hurdle in the construction work of the plaintiff over the suit lands, but due to intervention of some respectable persons, they could not succeed in their evil design, but they threatened the plaintiff that they will dispossess the plaintiff from the suit properties and will create hurdle in the construction work of the plaintiff and to interfere into the peaceful possession of the plaintiff over the suit land, to which they have no right to do so. Hence, the present suit.

Case of the Defendant:-

3. Upon notice, the defendants have appeared and not only filed their written statement, but also filed counter claim to the suit of the plaintiff here, it shall be imperative to lay down that while the defendants were proceeded ex parte by means of court order dated 6.02.2025 at the stage of rebuttal evidence and arguments, as a result of which their counter claim also got dismissed in default on the same date, the written statement encounter claim of the defendants are discussed here under in brief for substance.

In the written statement of the defendants it has been contended that plaintiff has not come to the court with clean hands as the

real facts of the case are that Gyani Devi, who was the vendor of the plaintiff did not have the right to enter into a sale deed with respect to the suit property as one Harish used to be the owner in possession of the suit property who had two sons, Pirthi and Prahlad. That Pirthi had four daughters Bhagwani, Sarti, Bhateri and Bharto Devi apart from a widow Nihalo. That out of the above elaborate four daughters except Bharto Devi all had died. That Prahlad had a son named Jage. That after death of Nihalo her mutation of inheritance was wrongly mutated in the name of above Jage by showing Nihalo issueless while the right of Bharto who was the alive daughter of Nihalo and Pirthi was ignored. Thereafter, above said Jage suffered the court decree in favour of his daughters, Bedo, Gyan Devi, Khaani and Om Devi. When Bharto came to know about the said collusion and fraud in inheritance, mutation of her mother Nihalo she filed a civil suit titled as Bharto Devi versus Bedo, seeking relief of declaration that she is the owner in possession of the suit property, and the concerned mutations be declared void which was filed on 26.02.2013 and is presently pending for adjudication. That in spite of the pendency of the said civil suit, Giani Devi entered into a sale deed in favour of plaintiff, being illegal and void. therefore, it is the submission of the defendants that neither plaintiffs are rightful owners in possession of the suit property, nor defendants have any concern with the suit property including possession which rests with defendants.

On the basis of similar pleadings, defendants by means of filing a separate counterclaim have also sought the relief of permanent injunction against the plaintiff for restraining the plaintiff to take forcible possession of the suit property and also restraining them from changing the nature of the suit property by way of raising construction or in any other manner or by alienation permanently along with interfering in peaceful possession of the counter claimant/defendants.

Issues:

4. Replication not filed. From the pleadings of the parties, the following issues were framed on 14.01.2019

1. Whether the plaintiff is entitled to a decree for Permanent Injunction as prayed for?OPP
2. Whether the suit of the plaintiff is not maintainable in the present form?OPD
3. Relief.

Evidence of plaintiff:

5. In order to prove their case, the plaintiffs got examined the following witnesses:

PW1 : Anil Kumar (plaintiff) has appeared and tendered his duly sworn affidavit Ex. PW1/A wherein the contents of the plaint were reiterated and in his evidence.

PW-2 : Sneha Lata Sub Registrar has appeared and produced the

summoned record.

6 No other PW was examined and evidence on behalf of plaintiff was closed on 26.05.2026 Plaintiff also placed on record the following relevant documents in his evidence:

- Mark-A : Copy of Agreement To Sell dated 26.06.2013
- Mark-B : Site plan
- Mark-C : Copy of sale deed no 7314 dated 30.09.2014
- Mark-D : Copy of sale deed No. 4718 dated 28.06.2013
- Mark-E : Report of Demarcation
- Mark-F : Letter to Tehsildar Sonapat
- Mark-G : Letter to plaintiff bearing Memo No. ST-2383-PA (SN)-2017/7456 (CLU)
- Mark-H : Letter to plaintiff bearing Memo No. STP (R)/CLU-11005 (S)/BP/733 dated 05.02.2018 (Approval of Building Plan)
- Mark-I : Nakal Jamabandi for the year 2012-13
- Mark-J : Nakal Jamabandi for the year 2012-13
- Mark-K, L and M : Intkal Registers
- Ex. PA : Copy of judgment dated 25.10.2018 in case titled as Bharto Devi Vs. Bedo and Ors. From the Court of Sh. Vishal, the then Ld. Civil Judge (Jr. Divn.), Sonapat.
- Ex. PB : Copy of judgment dated 23.12.2024 in case titled as Bharto Devi Vs. Bedo and Ors. From the court of Sh. Narender Singh, Ld. ADJ Sonapat

Evidence of the defendants:

7 No evidence was led by defendants in support of their case and thus in view of 10 effective opportunities, the same was closed by Court's order dated 13.11.2024 by Ld. Predecessor of this Court.

Rebuttal evidence:

8 No rebuttal evidence was present and rebuttal evidence was closed by court order.

9 This Court has heard the learned counsel for the plaintiff and the defendant and has also gone through the case file thoroughly.

10 The issue-wise findings of this Court with reasons thereof are as under:-

Issue no. 1 :

11. Onus to prove this issue is on the plaintiff. It is the case of the plaintiff and he has to prove his case by leading cogent evidence. The plaintiffs case has to stand on his own legs and he cannot take the advantage of weaknesses of the defendant/respondent. Reliance in this regard may be placed in case law titled as **Chodi Mahalakshmi versus Koppada Sathiraju & Ors., 2011(2) CCC, 841.**

12 Briefly stated, while by means of present suit, plaintiff is seeking relief of permanent injunction for restraining the defendants from disturbing the peaceful possession of the plaintiffs submitting that plaintiff's (husband and wife) are exclusive owners in possession of the

suit, property and defendant have no concern with the same.

To discharge their burden of proof, plaintiff has got himself examined as PW1, reiterating the version of his pleadings. In his cross-examination, he has stated that it is correct that no notice of the demarcation dated 18.04.2016 was given to the defendant by plaintiff. Thereafter, he self stated that since they are not party in the suit property, no notice to them was given. he has denied the suggestion of counsel for defendant that it is defendant who are in possession of the suit property. Thereafter, Self stated that he has constructed a warehouse on the suit property.

Thereafter, plaintiffs have got PW2 Snehlata from Sub Registrar Office, Sonipat examines she having produced the summoned the record has verified sale deed number 7314 dated 30.09.2014 by means of which portion of suit property was sold by Kuldeep in favour of plaintiff Anil put on record as Mark C. Thereafter, she also verified record of Sale deed No. 4718 dated 28.06.2013 by means of which Gyani Devi sold suit property in favour of Anita and Kuldeep put on record as Mark D.

Now, in the light of evidence of plaintiff especially testimony of PW2, when red in light of Mark C and D clearly establishes the title of the plaintiffs as exclusive owners of the suit property having purchased the same by means of the concerned sale deeds which have been duly proved by the plaintiff. As far as the possession of the plaintiffs are

concerned, while the sale deeds in favour of plaintiff clearly highlight that the possession of the suit property has also been handed over on the same day to the plaintiffs. Furtheron, while the demarcation of the suit property was sought by means of letter put on record as Mark F, the report of the same Mark E cannot per se be admissible in evidence of the plaintiff since the demarcating official has not been examined by the plaintiff in his evidence. Nevertheless, considering that the whole objection of the defendants of the present suit was only the capacity of the vendor of plaintiffs to sell the suit property, specially in light of pendency of civil litigation titled as Bharto Devi versus Smt. Bedu and others, the documentary evidences put on record by the plaintiff in form of Ex. PA and Ex. PB are the judgments of Ld. Trial Court dated 25.10.2018 and Ld. Appellate Court dated 23.12.2024 in the said civil suit, respectively, where in the civil suit of plaintiff was dismissed by the trial court and said judgment was upheld by the learned appellate court, dismissing the appeal concerned. Thus, emphasizing that the whole basis of the contest of defendants of the present suit have been debunked by the said judgments concerned. In addition to the same, there is nothing on record highlighting that any other civil litigation or interest in favour of defendants in the suit property was there. Considering that plaintiffs have been able to establish their exclusive ownership and possession over the suit property, and also considering that defendant being aliens to the suit property, having attempted to disturb the peaceful possession of the

plaintiffs will be nothing more than trespasses and in view of judgment of Hon'ble Supreme Court of India, in case titled as **Anathula Sudhakar vs P. Buchi Reddy (Dead) By Lrs & Ors AIR 2008 SUPREME COURT 2033** where the Apex Court has held that summarize, the position in regard to suits for prohibitory injunction relating to immovable property, is as under :

- (a) *Where a cloud is raised over plaintiff's title and he does not have possession, a suit for declaration and possession, with or without a consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. Where there is merely an interference with plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.*
- (b) *As a suit for injunction simpliciter is concerned only with possession, normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession.*
- (c) *But a finding on title cannot be recorded in a suit for injunction,*

unless there are necessary pleadings and appropriate issue regarding title [either specific, or implied as noticed in Annaimuthu Thevar (supra). Where the averments regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title, in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.

- (d) Where there are necessary pleadings regarding title, and appropriate issues relating to title on which parties lead evidence, if the matter involved is simple and straight-forward, the court may decide upon the issue regarding title, even in a suit for injunction. But such cases, are the exception to the normal rule that question of title will not be decided in suits for injunction.”*

In view of the findings of the Supreme Court, since plaintiffs have successfully established their title and de jure possession and defendants could not prove their pleadings in any manner there remains no cloud on the title of the plaintiffs in light of judgments (Ex. PA and PB), this Court is of the considered view that plaintiffs have discharged their burden of proof.

Relief:

As a sequel of my findings on the aforesaid issue, specially on issue no. 1, **the suit of the plaintiff is hereby exparte decreed with no order as to cost** and the defendants are restrained from creating any hurdle in the construction work of the plaintiff and from dispossessing the plaintiff from the suit land from interfering into the peaceful possession of the plaintiff over the suit land. Original documents on record (if any) be returned to parties as per rules. Decree sheet be prepared accordingly and file be consigned to record room after due compliance.

ANNOUNCED IN OPEN COURT

Dated: 22.07.2026

(Sakshi Gupta)
Civil Judge (Jr. Divn.),
Sonipat/UID No. HR0627

Note: This judgment contains **13** pages and each page has been checked and signed by me.

(Sakshi Gupta)
Civil Judge (Jr. Divn.),
Sonipat/UID No. HR0627

Typed by: Usha Rani, Stenographer G-II

(Sakshi Gupta)
CJ(JD), Sonapat.
UID No. HR0627
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