

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

APPEAL SUIT NO: 9 OF 2020

Appeal U/s 96 of C.P.C against the Judgment and Decree made in O.S.No.744 of 2007 dated 16.10.2019 on the file of the Court of the II Additional District Judge, Ranga Reddy District.

Between:

Maganti Ramana Kumar, S/o Narsimha Rao, Aged . 60 years R/o 12-4-124/1, Pragathi Nagar, Moosapet, Hyderabad.

...APPELLANT/DEFENDANT

AND

Nimmagadda Annapurna D/o Subba Rao, R/o.LIC Agent Vuyuru(post) Krishna Dist.521165

...RESPONDENT/PLAINTIFF

I.A.NO. 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of Decree and Judgment dt.16.10.2019 passed in O.S.No. 744/2007 by the II Additional District Judge, at Ranga Reddy District.

Counsel for the Appellant : SRI. MAGANTI SATYANARAYANA

Counsel for the Respondent : SRI A.NAVA MOHAN RAO

The Court made the following: JUDGMENT

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

APPEAL SUIT NO.9 OF 2020

BETWEEN :

Maganti Ramana Kumar,
S/o.Narsimha Rao, aged 60 years,
R/o.12-4-124/1, Pragathi Nagar,
Moosapet, Hyderabad.

... Appellant/Defendant

AND

Nimmagadda Annapurna,
D/o.Subba Rao, Aged: 43 years,
R/o.LIC Agent, Vuyyuru (Post),
Krishna District - 521 165.

... Respondent/Plaintiff

JUDGMENT:

1. This Memorandum of Appeal is filed under Section 96 of Code of Civil Procedure, 1908 (for short 'CPC') assailing the judgment and decree in OS.No.744 of 2007, dated 16.10.2019 passed by the II Additional District Judge, Ranga Reddy at L.B.Nagar, Hyderabad.

2. Appellant is the defendant and respondent is the plaintiff in OS.No.744 of 2007.

3.1. Respondent-plaintiff has filed suit to declare her as the absolute owner of the schedule property bearing Municipal No. 4-124/1 (Part), Old No.4-96/29, Plot No.46 in Survey Nos.331 to 334 admeasuring 269 square yards situated at Moosapet Village of Kukatpally Municipality.

3.2. It is stated in the plaint that appellant-defendant is the divorced husband, their marriage is dissolved by virtue of decree of divorce dated 07.01.2002 by the Judge, Family Court, Vijayawada. Respondent-plaintiff is a Post-Graduate and worked as part time Lecturer at Hyderabad during the subsistence of her marital relationship. Respondent-plaintiff got appointed as Excise Inspector and joined in Service at East Godavari District, State of Andhra Pradesh in November, 1997 and she was in service by the date of decree of divorce and was working as Excise Inspector at Tadepalligudem, her parents gave her considerable cash to purchase the suit schedule property and she entrusted the same to appellant-defendant which was deposited in Andhra Bank, Ameerpet Branch, Hyderabad and her husband was maintaining the cash on her behalf and they have no house of their own in Hyderabad. Respondent-plaintiff suggested the appellant-defendant to purchase a house site so that residential house can be constructed thereon with her money and they came to know

that one Sunil D. Thakar, S/o. Dayalji D. Thakar is ready to sell the site as he made his property in to house plots for reasonable price. Thakar has authorized Mahesh M. Thakar as his GPA to sell the house plots, after negotiations the GPA holder offered to sell the suit plot to the respondent-plaintiff for Rs 16,889/- and requested her to pay the sale consideration by way of Demand Draft, on her instructions appellant-defendant has withdrawn the amount from Andhra Bank, Ameerpet Branch from her account and obtained a Demand Draft on 25.11.1993 and handed over the same to the vendor who encashed it and the GPA holder has executed a registered sale deed in favour of the respondent-plaintiff on 26.11.1993 *vide* Document No.10909/1993 and also delivered the possession, by the date of delivery of the property there was a small shed on South West of the Plot and subsequently the respondent-plaintiff has raised a shed in the site for the purpose of residence and the couple lived therein till she left Hyderabad to join her duties in 1997.

3.3. The appellant-defendant with a dishonest intention to grab the suit schedule property squatted over the property and in spite of request he did not vacate the suit land and the efforts made by her with the help of Dr.N.S.D.Prasada Rao, P.Srinivasa Rao proved futile thereby the respondent-plaintiff got issued legal notice on

13.06.2007 to deliver the possession and to pay damages for the use and occupation @ Rs.5,000/- per month for which the appellant-defendant gave reply on 29.06.2007 with false averments stating that he perfected the title by way of adverse possession and further contended that the sale deed dated 26.11.1993 in favour of the respondent-plaintiff is forged and fabricated.

4. Appellant-defendant filed his written statement and contended that it is he who has purchased the suit schedule property for a sale consideration of Rs.370/- per square yard, its extent is 266.66 square yards of land along with room from Sunil D. Thakar and Mahesh M. Thakar in the month of September, 1993 and paid an amount of Rs.27,000/- on 27.09.1993, also paid an amount of Rs.45,600/- and Rs.26,889/- by way of D.D. on 25.11.1993 and obtained possession and that he has constructed a residential house by raising cement brick walls, super structure with metal tubes and steel sheets and he is in possession of the property since 1993 till date. Respondent-plaintiff deserted the appellant-defendant in the month of November, 1997 and subsequently never came back, due to paucity of funds the appellant-defendant could not get the Plot registered, that on 07.09.2001 he got issued legal notice to his vendors with a demand to execute the registered sale deed, as there was no response from

his vendors the appellant-defendant has filed suit for specific performance in OS.No.345 of 2002 on the file of Principal Junior Civil Judge (West & South) Ranga Reddy District and obtained *ex parte* decree on 30.12.2002 and filed EP.No.230 of 2004, obtained registered sale deed from the Court and that he has become the absolute owner of the property, to his surprise, he received the suit summons. Respondent-plaintiff is not in possession of the original sale deed and she filed the certified copy. Respondent-plaintiff with the help of Dr. N.S.D.Prasada Rao obtained forged and fabricated sale deed in her name and prayed to dismiss the suit.

5. The following issues were framed by the learned trial Court:

1. Whether the plaintiff is the absolute owner of suit schedule property by virtue of Regd. Sale Deed dated 26.11.1993 ?
2. Whether the plaintiff is entitled for delivery of possession of suit schedule property from the defendant?
3. Whether the plaintiff is entitled for recovery of damages together with interest, if so to what amount ?
4. To what relief?

6. Respondent-plaintiff is examined as PW.1 and also examined PW.2-N.S.D.Prasada Rao, got marked Exs.A1 to A 8. Appellant-defendant is examined as DW.1 and got marked Exs.B1 to B17.

CW.1-Mahesh M. Thakar is examined as a Court witness on behalf of respondent-plaintiff and got marked Ex.C1.

7. The learned trial Court after analyzing the evidence adduced by the parties coupled with the documents decreed the suit in favour of the respondent-plaintiff holding that she is the absolute owner of the suit schedule property and directed the appellant-defendant to vacate and deliver vacant possession of the same within two months from the date of judgment (16.10.2019) and also directed him to pay Rs.4,000/- per month for three years prior to till the date of suit, the mesne profits from the date of suit till the date of delivery of possession will be ascertained in separate application.

8.1. Learned counsel for the appellant-defendant submits that the learned trial Court failed to appreciate that the appellant-defendant has paid advance sale consideration of Rs.27,000/- by way of cash on 27.09.1993, again paid Rs.26,889/- by way of Demand Draft and Rs.45,600/- by way of cash on 25.11.1993 and the total sum paid is Rs.99,489/- towards sale consideration of the suit schedule property.

8.2. The learned trial Court failed to appreciate that the registration value of the property at the time of making payment of

sale consideration was Rs.500/- per square yard and the total comes to Rs.1,34,500/-, after negotiations the sale consideration is settled at Rs.99,489/- and the learned trial Court erred in accepting the pleading of the respondent-plaintiff that the suit schedule property is purchased for Rs.26,889/-. The learned trial Court misinterpreted the suggestions given by the appellant's counsel to the respondent-plaintiff.

8.3. The learned trial Court has proceeded in a prejudicial manner by accepting the version of the respondent-plaintiff and ignored the submissions of the appellant-defendant. The pass book entries of the respondent-plaintiff were altered at several places and such entries are fabricated and forged and also erred that the respondent-plaintiff is not a party to the suit for specific performance. The findings of the learned trial Court that Ex.A1 is prior in point of time with that of the sale deed of appellant-defendant and that CW.1 has not come forward to oppose the suit filed by the appellant-defendant for specific performance which came to be decreed and sale deed came to be executed in his favour. The learned trial Court failed to see that the appellant-defendant is in continuous possession of the suit schedule property and is in adverse possession of the same.

8.4. The observation of the learned trial Court that respondent-plaintiff is entitled for declaration of title as per Section 14(1) of Hindu Succession Act. In fact, Hindu Succession Act is not applicable to the case on hand. The learned trial Court failed to consider the fact that the evidence of PW.2 and CW.1 is not trust worthy and ought to have held that the appellant-defendant has discharged his burden by proving the payment of sale consideration to the GPA holder of the original property owner. In support of his contention has relied on the decisions in the case of (1) Balkrishan Vs. Satyaprakash and Others¹, (2) Des Raj and Others Vs. Bhagat Ram (Dead) by LRs and Others².

9. Learned counsel for the respondent-plaintiff submits that the learned trial Court has properly appreciated the facts of the case and rightly decreed the suit as prayed for, no interference is called for and in support of his contention has relied on the decisions in the cases of (1) Prem Nath Khanna and Others Vs. Narinder Nath Kapoor (Dead) Through LRs and Others³, (2) Jai Kishan and Others Vs. Sardari Lal and Others⁴, (3) K.B. Bhandari Vs. Laxyman Limboo⁵.

¹ 2001 (2) SCC 498

² Appeal (Civil) 5846 of 2000 dated 20.02.2007 of the Supreme Court of India

³ AIR 2016 SC 1433

⁴ AIR 2015 Himachal Pradesh 93

⁵ AIR 2017 Sikkim 37

10. Learned counsel on record have filed their written submissions in support of their contentions.

11. Heard learned counsel on record, perused the material.

12. Now the point for consideration is : Whether the judgment and decree passed by the learned trial Court in OS.No 744 of 2007, dated 16.10.2019 suffers from any perversity or illegality? If so, does it require interference of this Court?

13. Ex.A1 is the Certified Copy of Registered Sale Deed dated 26.11.1993 executed by Sri Sunil D. Thacker represented by his GPA holder Sri Mahesh M.Thakar in favour of the respondent-plaintiff. The recitals goes to show that the total sale consideration of the property is Rs.26,889/- which is paid through D.D.No.766288 dated 25.11.1993. The schedule of the property is House bearing Municipal No.4-124/1 (Part) Old No.4-96/29 on Plot No.46 in Survey No.331 to 334, admeasuring 269 square yards or equivalent to 224.88 square metres, situated at Mossapet Village, Kukatpally Municipality, Balanagar Mandal, Ranga Reddy District with boundaries. E.A17 is the original Registered Sale Deed of the suit schedule property. Exs.A5 to A8 are Property Tax Receipts dated 26.10.2006, 14.10.2005, 05.09.2007, 31.05.2008 pertaining to H.No.12-4-124/1 and the remitters name is shown as

M.Annapurna (respondent-plaintiff). Ex.A9 is the Carbon Copy of Cash Receipt issued by Greater Hyderabad Municipal Corporation dated 30.05.2009 pertaining to plaint schedule property. Exs.A10 and A11 are Encumbrance Certificates dated 14.07.2004 and 28.12.2005 for the period from 24.03.1994 to 13.07.2004 and 24.03.1994 to 27.12.2005. Ex.A12 is the Letter issued by Divisional Engineer, Electricity Operation Division, Kukatpally addressed to the respondent-plaintiff dated 19.07.2008 and the letter goes to show that the information asked is already sent. Ex.A13 is the information furnished to the respondent-plaintiff which shows that the service connection No.22005 02602 stands in the name of M.Annapurna (respondent-plaintiff). Exs.A14 and A15 are the Property Tax Receipts in respect of the suit schedule property dated 07.11.2004 and 29.01.2006. Ex.A16 is the Attested copy of the Pass Book of the respondent-plaintiff and Ex.A18 is the original Bank Pass Book.

14. Respondent-plaintiff has got issued a legal notice to the appellant-defendant on 13.06.2007 stating that she has obtained the suit schedule property under registered sale deed on 26.11.1993 and further stated that the appellant-defendant is in permissive possession of the suit schedule property and she has been requesting repeatedly through elders to vacate and deliver the

possession to her as she is the absolute owner thereof and called upon to vacate the premises and deliver possession within 15 days of receipt of notice besides paying damages for use and occupation @ Rs.5,000/- per month totally to Rs.1,80,000/- for a statutory period of three years for unauthorized occupation (Ex.A2). Appellant-defendant has got issued a reply under Ex.A4 stating that he has purchased the suit schedule property in the month of September 1993 by paying valuable sale consideration and possession was delivered to him on 25.11.1993, he has immediately constructed the house on the said land and has been in continuous and uninterrupted possession till date and also obtained a valid conveyance deed to the said property and he possesses original receipts of payment and he is living in the schedule property as a true owner since 25.11.1993 and the sale deed of the respondent-plaintiff dated 26.11.1993 (Ex.A1/Ex.A17) is a fabricated document which is obtained by fraud.

15. The witnesses to Ex.A1/Ex.A17 are Dr.N.S.D.Prasada Rao and Eshwara Chandradar.

16.1. Appellant-defendant and respondent-plaintiff are husband and wife, their marriage was performed on 02.06.1990 at Vuyyuru, Krishna District according to Hindu Rites and Customs and they lived at Hyderabad till November, 1997 and they are blessed with a

son by name Siddhartha, aged 6 ½ years by the date of filing of O.P. for divorce on the ground of cruelty and desertion under Ex.B1. Respondent-plaintiff secured a Government Job and she was posted as Circle Inspector, Excise and Prohibition after training in Yanam and she worked there till October, 1998 and thereafter transferred to Prattipadu, East Godavari District. Respondent-Plaintiff stated in Ex.B1 that the appellant-defendant pressurized her to dispose of Ac.01-00 gts of land and give the sale proceeds to him. When the sale proceeds was received by the respondent-plaintiff by Bank Account transfer, site at Moosapet was purchased, though the site was purchased by the respondent-plaintiff with her amount the appellant-defendant made a trick of converting her amount into D.D. in his name and paid the amount as if the amount belongs to him.

16.2. Ex.B2 is the sale deed of the appellant-defendant dated 11.02.2006 which is executed by Additional Junior Civil Judge, Ranga Reddy District, L.B.Nagar, Hyderabad on behalf of Sri Sunil D.Thakar, Sri Mahesh M. Thakar in favour of appellant-defendant in pursuance of the judgment and decree passed in OS.No.345 of 2002 dated 30.12.2002 and EP.No.230 of 2004 in respect of the suit schedule property. The schedule property covered in Exs.A1/A17 and Ex.B2 are one and the same. Ex.B2 came to be

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executed through Court after thirteen years of execution of Exs.A1/A17. Ex.B3 is the Receipt issued in favour of the appellant-defendant by Mahesh M. Thakar dated 25.09.1993 for an amount of Rs.27,000/- as advance for Plot No.46 of House No. 4-96/29 in Survey Nos.331 to 334 situated at Mossapet Village. Ex.B4 is another Receipt dated 25.11.1993 issued by Sunil D.Thakar for Rs.45,600/- in favour of the appellant-defendant in respect of the suit schedule property. Exs.B5 to B7 are Municipal Tax Receipts in favour of the appellant-defendant dated 17.06.2006, 14.06.2007, 06.08.2008 in respect of the suit schedule property. Ex.B8 is the Counterfoil dated 15.11.2003 for an amount of Rs.26,956/- favouring Sunil D. Thakar. Exs.B9 to B14 are Electricity Bills in respect of the suit schedule property standing in the name of appellant-defendant which were issued in the years 2006 and 2007. Ex.B15 is the Tax Receipts for the years 2009 to 2012 in respect of the plaint schedule property stands in the name of appellant-defendant. Ex.B16 is the Electricity Bills for the years 2015 to 2019 and Ex.B17 is the Mutation Certificate.

17. Appellant-defendant has filed suit for specific performance of Contract in OS.No.345 of 2002 against Sunil D. Thakar, Mahesh M. Thakar i.e., after nine years of execution of Exs.A1 and A17. E.P. is filed in the year 2004 and Ex.B2-sale deed is executed in

his favour on 04.02.2006 but document is executed on 18.02.2006. Appellant-defendant has got issued reply notice to Ex.A2 under Ex.A4. Ex.A4 does not have the date but he has not referred about the execution of sale deed in his favour by the Court on 11.02.2006 when Ex.A2 legal notice came to be issued on 13.06.2007. The appellant-defendant for the best reasons known to him has not stated anything about issuance of legal notice by him on 07.09.2001 to his vendors except stating that he obtained valid conveyance deed.

18.1. The evidence of respondent-plaintiff as PW.1 is the same with that of plaint averments. In her cross-examination she stated that in the month of December 1996, she was selected as Prohibition and Excise Inspector in Group II Services and on 05.12.1996 she joined at A.P. Excise Academy at Hyderabad and she never lived with the appellant-defendant at Hyderabad after she obtained divorce on 07.01.2002 and she received a legal notice got issued by the appellant-defendant dated 02.06.2001 but she did not give any reply and she took charge as Excise Inspector in the month of November, 1997. From 1991 to 1996 October, she worked as part-time Lecturer at Government Junior College for Girls at Hussainialam, Hyderabad and BJR Government College at Lakdikapul and used to get salary of Rs.2,800/- per month and

Ex.P16 does not reflect the amounts in the Bank A count. She was provided with Acs.99-00 gts of land at Uppaluru Village at the time of her marriage and Rs.30,000/- was given as dowry to the appellant-defendant. A sum of Rs.70,015.82 Paisa was transferred on 26.08.1992 to her saving account in Andhra Bank, Ameerpet Branch, Hyderabad. An amount of Rs.50,000/- was withdrawn by her on 26.08.1992 *vide* cheque No.794 and another amount of Rs.50,000/- was withdrawn by the appellant-defendant *vide* cheque No.795. On 02.11.1993 a sum of Rs.50,504/- and Rs.50,504/- were transferred to the account under Ex.A16 from her Fixed deposit and on 13.09.1993 there was a balance of Rs.6,890.60 Paisa in her saving account. A sum of Rs.55,147/- was deposited in the account on 02.06.1993 by way of Demand Draft. On 13.09.1993 a sum of Rs.50,000/- was withdrawn. Upto 8th November, the amounts were withdrawn and were kept in Fixed deposit, the amounts were finally withdrawn by the appellant-defendant on 08.11.1993 through cheque No.799, as the defendant (appellant herein) requested for expenses and development charges, she issued a cheque in his favour for a sum of Rs.1,00,000/- though the sale consideration under Ex.A1/A17 was for Rs.26,889/-.

18.2. Respondent-plaintiff denied the suggestion that appellant-defendant has paid Rs.27,000/- on 25.09.1993 and obtained a receipt from the GPA holder Mahesh M. Thakar after entering into an agreement to purchase it @ 370/- per square yard and he also paid Rs.46,500/- on 25.11.1993 to the owner Sunil M. Thakar and obtained receipt, as they did not execute the sale deed the appellant-defendant has filed OS.No.345 of 2002 and sale deed is executed by the Court in his favour on 11.02.2006. Till 2006, her name is recorded in the Municipal Records and she do not know in whose name the property stands after 2006. Ex.A9 is dated 03.05.2009 and she paid the tax thinking that the property still continues in her name. Respondent-plaintiff denied the suggestion that Exs.A1, A5 to A8, A13 to A15 are fabricated documents to suit her claim and also denied the suggestion that the description, boundaries and the schedule mentioned in Ex.A17 are incorrect and the same is a fabricated document. The address mentioned in Ex.A17 is 4-120/2, Sri Hari Nagar, Moosapet, Hyderabad and the same address is shown in the 1st witness to the said document (Dr.Prasada Rao). She has not filed the GPA executed by Sunil D. Thakar in favour of Mahesh M. Thakar and Ex.A7 was registered on 09.12.1993.

19.1. PW2-N.S.D. Prasada Rao deposed that he knows the parties to the suit and respondent-plaintiff is his cousin, she has purchased the suit schedule property on 26.11.1993 from Sunil D. Thakar through his GPA holder Mahesh M. Thakar for a total sale consideration of Rs.26,889/-, the sale deed was executed and presented for registration on the same day i.e., on 26.11.1993. On 09.12.1993 it was registered at District Registrar Office, Ranga Reddy District and he was present at that time. Mahesh M. Thakar, GPA holder of Sunil D. Thakar executed sale deed in favour of the respondent-plaintiff and he signed as attester to the said document and he identified his signature in Ex./ 17.

19.2. In his cross-examination, he stated that he was present at the time of payment of consideration shown in the sale deed and he cannot give the exact date of the presentation of the sale deed for registration and the address given by him in the sale deed is permanent one, since the plaintiff (respondent herein) and her husband (appellant herein) are employees, for correspondence purpose they use his permanent address and the sale deed was executed by Mahesh M. Thakar as a GPA holder, to his remembrance the original owners of the land are the relatives of Mahesh M. Thakar. After presentation of the document for verification of the Door number it was kept pending and he signed

on the document on the date of registration. Witness adds that at the time of registration his signatures were obtained in the Register. PW.2 denied the suggestion that Ex.A17 was not executed by Mahesh M.Thakar.

20.1. Respondent-plaintiff has summoned Mahesh M. Thakar to give evidence on her side.

20.2. Mahesh M. Thakar is examined as Court witness-CW.1 on 28.09.2010. His evidence is that he knows the plaintiff (respondent herein) through Dr.Prasad. Sunil D. Thakar is his uncle's brother, he has executed a registered GPA in his favour. Plaintiff (respondent herein) has purchased the property under Ex.A17 registered sale deed which contains his signature. He has received the entire sale consideration and delivered the possession. He has given a letter to Kukatpally Municipality for mutation of the property, the total extent is 266 square yards, by the date of Ex.A17 there was a small structure with Asbestos sheets roof.

20.3. Cross-examination of the said witness is recorded as NIL by the learned trial court on 28.09.2010. Witness was recalled as per the orders in IA.No. 762 of 2019, dated 28.06.2019 for cross-examination by appellant-defendant after a period of 9 years. In his cross-examination he stated that Sunil Thakar is not in

Hyderabad but his elder brother is having office. Vendee and her husband came to purchase the property directly without any mediators and he do not remember the price quoted by him. Signature available on Ex.B2, under which he has received advance from appellant-defendant and he cannot identify the signature of Sunil Thakar, he cannot produce GPA since it was executed long back and its availability is doubtful. He do not know that on the date of Ex.A1, the vendee and her husband were at logger heads. So also he do not know the attester of Ex.A1 by name Prasada Rao who is the brother of the vendee and he received the consideration under Ex.A1 by way of D.D. besides the amount mentioned in Ex.B2 and he do not remember that the D.D. was given by the defendant only. CW.1 denied the suggestion that he received the consideration from the appellant-defendant but executed the document in favour of the vendee (respondent-plaintiff) that himself, vendee and her brother Prasada Rao are deposing false to defeat the rights of the defendant (appellant herein) and he do not know that subsequent to Ex.A1, the same property was registered once again by the Court.

20.4. No suggestion is put to CW.1 that the appellant-defendant has purchased the suit schedule property for a sale consideration of Rs.370/- per square yard for the total extent of 266.66 square

yards from Sunil D. Thakar and he was delivered physical possession of the property on 25.11.1993.

21. The evidence of the appellant-defendant is the same with that of his written statement. In his cross-examination he stated that there were small misunderstandings between him and his wife and there were no serious disputes or differences till decree of divorce was passed in the year 2002. Till 1997, both of them lived under one roof and he did not contest the divorce petition and he has no knowledge about the execution of sale deed in favour of the respondent-plaintiff in respect of the suit schedule property till she filed the suit and he filed OS.No.345 of 2002 for specific performance of contract against his wife during the pendency of OP.No.262 of 2001 and he obtained agreement of sale from Sunil Thakar who is D2 in OS.No.345 of 2002 and he do not know that respondent-plaintiff became absolute owner of the suit schedule property by the date of filing OS.No.345 of 2002. Except Exs.B2, B3 and B7 there is no separate written agreement in his favour with the original owners. The amount under Exs.B2 and B7 were directly given to Mr. Sunil Thakar whereas the amount under Ex.B3 was given to the GPA holder by name Mahesh. Witness adds that amount under Ex.B2 was given to the GPA holder by name Mahesh and the amount under Ex.B3 was given to Mr. Sunil and

he got knowledge by then itself that Mr. Mahesh is a registered GPA holder of Mr. Sunil and he received legal notice from the respondent-plaintiff, got issued Ex.A4 reply and there is no recital that he has previously purchased the suit schedule property and got it registered in his name. Prior to mutation of his name in the Municipal Records, the name of one Annapoorna was recorded in the Municipal Records and in Electricity Department, he is in possession of the suit property as of now and he has given it on rent which is fetching Rs.3000/- to 4000/- per month. Ex.C1 is the copy of the order in CMA No.1059 of 2009 of the High Court, dated 21.12.2009 to dispose of the suit within a period of 6 months from the date of receipt of copy of the order. Appellant-defendant denied the suggestion that in the year 2006 itself, the name of the respondent-plaintiff is mutated in the Municipal Records by the date of filing OS.No.345 of 2002 and he also denied the suggestion that Annapurna is no other than respondent-plaintiff who is his divorced wife.

22.1. In Balkrishnan¹, the Supreme Court held that "A person claiming title by adverse possession has to prove three nec – nec vi, nec clam and nec precario. In other words, he must show that his possession is adequate in continuity in publicity and in extent". In the said case, plaintiff's adverse possession commenced from

04.09.1973 and the period of 12 years completed on 04.09.1985 before the purchase of the suit land by the respondents therein on 11.12.1985 and the suit was filed on December 6, 1986. Therefore, the appellant-defendant therein has perfected his titled by adverse possession.

22.2. In Des Raj², the Supreme Court observed that "The principle of law is firmly established that a person who bases his title on adverse possession must show by clear and unequivocal evidence that his possession was hostile to the real owner and amounted to denial of his title to the property claimed. For deciding whether the alleged acts of a person constituted adverse possession, the animus of the person doing those acts is the most crucial factor. Adverse possession is commenced in wrong and is aimed against right. A person is said to hold the property adversely to the real owner when that person in denial of the owner's right excluded him from the enjoyment of his property".

23. It is the case of the appellant-defendant that the plot was purchased by him for a sale consideration of Rs.370/- per square yard to an extent of 266.66 square yards along with a room bearing House number from Sunil D. Thakar and physical possession was delivered to him on 25.11.1993. Except the oral testimony of the appellant-defendant there is no evidence placed by him that he has

purchased the suit schedule property from Sunil D. Thakar leaving apart Ex.B2. Another defense taken by the appellant-defendant is that he is in adverse possession of the suit schedule property since 1993. Ex.B4 is the cash receipt dated 25.11.1993 which only states that Sunil D. Thakar has received an amount of Rs.45,600/- . The adverse possession claimed by the appellant-defendant is not proved by way of any evidence much less either by oral or documentary evidence. The decisions cited by the appellant's counsel stated supra are distinguishable from the facts of the present case and thus the ratio of those cases would not apply to the case on hand.

24.1. In Prem Nath Khanna³, the point fell for consideration before the Supreme Court is "whether the plea taken by the deceased respondent No.1-defendant No.1 being in possession as a lessee could claim the alternate plea of adverse possession vice versa". The Supreme Court held that respondent No.1 has no right to claim ownership over the suit property on the ground of adverse possession by taking a plea of sham transaction".

24.2. In Jai Kishan⁴, the High Court of Himachal Pradesh held that "Plea of ownership and adverse possession are mutually inconsistent pleas, adverse possession cannot begin to operate until ownership is renounced".

24.3. In K.B. Bhandari⁵, the High Court of Sikkim held that "Claim based on title and on adverse possession mutually inconsistent - The concept of adverse possession is in opposition to a claim under title, two claims cannot either be parallel or simultaneous".

25. The appellant-defendant at one breath stated that he is the owner of the suit schedule property and the possession was delivered to him on 25.11.1993 and also became owner of the schedule property under Ex.B2-sale deed and he failed to prove the same.

26. The decision cited by the respondent-plaintiff's counsel in Prem Nath Khanna³, Jai Kishan⁴ and K.B.Bhandari⁵ are squarely applicable to the case on hand.

27. The evidence of CW.1 is germane to decide the lis. The appellant-defendant has contended that he has paid an amount of Rs.27,000/- under Ex.B3 to CW.1. Exs.A1/A17 goes to show that CW.1 was having a registered GPA in his favour executed by Sunil D. Thakar *vide* GPA No.2213 of 1993, Book 4, Volume 215, Pages 481 to 484, dated 08.11.1993 registered at R.O., R.R. District. Exs.A16 and A18 are the Pass Books of the respondent-plaintiff which shows the amounts of deposits and withdrawal. Exs.A5 to A8 are the Property Tax Receipts from the years 2005 to 2008 with

that of the receipts issued by GHMC under Ex.A9. The letter issued by Divisional Engineer, Electricity Department under Ex.A12 and Property Tax Receipts under Exs.A14 and A15 goes to show that after the execution of sale deed in favour of respondent-plaintiff under Exs.A1 and A17 property is mutated in her name. Furthermore, CW.1 has also stated that he has given letter to the concerned Department for mutation of the name, in pursuance of execution of Exs.A1/A17- sale deed. Ex.B5-Property Tax Receipt is after Ex.A6-Property Tax receipt dated 14.10.2005. The documents filed by the appellant-defendant are not much helpful to his case and the admission made by the appellant-defendant that he made the respondent-plaintiff as defendant No.1 in the suit filed by him for specific performance of contract which goes to show that he has knowledge of Exs.A1 and A17 sale deed. Furthermore, he has not stated in Ex.A4-reply notice that the sale deed is executed in his name by the Court under Ex.B2 on 11.02.2006 except stating that he has a conveyance deed. Appellant-defendant has suppressed the material facts and he has not made out any case to interfere with the orders passed by the learned trial Court.

28. The learned trial Court has elaborately discussed the contentions raised by the parties and rightly decreed the suit holding that the respondent-plaintiff is the absolute owner of the

suit schedule property and that she is entitled for delivery of possession and directed the appellant-defendant to vacate the same within 2 months from the date of judgment (16.10.2019) and further directed to pay Rs.4,000/- per month for 3 years prior to till the date of the suit.

29. This Court is of the view that the appellant-defendant has not made out any case to interfere with the orders passed by the learned trial Court, no interference is called for and the point is answered accordingly.

30. In view of the discussions above, Appeal deserves no consideration and the same is liable to be dismissed and is accordingly dismissed.

31. In the result, Appeal is dismissed without costs.

Interim Orders if any stands vacated. Miscellaneous application/s stands closed.

//TRUE COPY//

Sd/- A.V.S.PRASAD
DEPUTY REGISTRAR

SECTION OFFICER

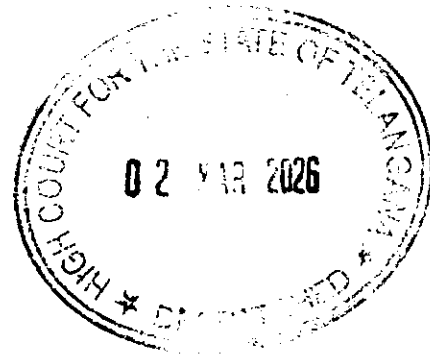
To,

1. The II Additional District Judge, Ranga Reddy District at L.B.Nagar, Hyderabad (With Records)
2. One CC to Sri M.Satyanarayana, Advocate (OPUC)
3. One CC to Sri Nava Mohan Rao, Advocate (OPUC)
4. Two CD Copies

Ks/PR

HIGH COURT

DATED:23/12/2025



JUDGMENT

AS.No.9 of 2020

**Dismissing the Appeal Suit
Without costs.**

GMT
4/2/26

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE JUSTICE B.R.MADHUSUDHAN RAO

APPEAL SUIT NO: 9 OF 2020

Between:

Maganti Ramana Kumar, S/o Narsimha Rao, Aged . 60 years R/o 12-4-124/1,
Pragathi Nagar, Moosapet, Hyderabad.

...APPELLANT/DEFENDANT

AND

Nimmagadda Annapurna D/o Subba Rao, R/o.LIC Agent Vuyuru(post) Krishna
Dist.521165

...RESPONDENT/PLAINTIFF

Appeal U/s 96 of C.P.C. against the Judgment and Decree made in
O.S.No.744 of 2007 dated 16.10.2019 on the file of the Court of the II Additional
District Judge, Ranga Reddy District.

ORDER : This appeal coming on for hearing and upon perusing the grounds
of appeal, the Judgment and Decree of the Lower Court and the material papers in
the Suit and upon hearing the arguments of Sri M.Satyanarayana for the Appellant
and of Sri Nava Mohan Rao, Advocate for the Respondent.

This Court doth Order and Decree as follows :

1. That the appeal be and hereby is dismissed.
2. That there be no order as to costs in this appeal.

//TRUE COPY//

**Sd/- A.V.S.PRASAD
DEPUTY REGISTRAR**


SECTION OFFICER

To,

1. The II Additional District Judge, Ranga Reddy District at L.B.Nagar,
Hyderabad
2. Two CD Copies

ks



HIGH COURT

DATED:23/12/2025

DECREE

AS.No.9 of 2020

**Dismissing the Appeal Suit
Without costs.**

(4) MT
4/2/26