IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

SA 193 of 2016

Arun Kumar Mondal

-Vs-

Hagru Gorain & Ors.

For the Petitioner : Mr. Bhaskar Ghosh
Ms. Priyanka Jana
Mr. Bikramjit Mandal
Mr. Parimal Sardar

For the Respondents : Mr. Animesh Mukherjee

Judgment on : 05.05.2026

Ananya Bandyopadhyay, J.:-

1. The plaintiff/appellant seeks a declaration of title and confirmation of possession over a specific parcel of land, relating to an original joint ownership held by Durgacharan and Rashbihari. These original co-owners permanently severed their joint status by executing a registered deed of partition on October 13, 1931, after which they occupied and enjoyed their respective shares in complete independence from one another. The lineage of the property shifted when Rashbihari, by way of a registered deed of sale bearing No.271 dated January 27, 1959, conveyed the property described in Schedule-1, along with other adjacent lands, to Tinkari Chakraborty and his five brothers. While these six brothers were in active and peaceful possession of the land, the settlement authorities committed several clerical errors during the Estates Acquisition operation.

Aggrieved by such erroneous entries in the revenue records, Tinkari Chakraborty and his brothers instituted a civil suit, registered as Title Suit No.32 of 1980, against the heirs of Durgacharan Banerjee and other associated parties. This litigation ultimately concluded in favor of the brothers, with the court decreeing the title and possession of the purchased land in their favor.

2. Following this successful legal vindication, Tinkari Chakraborty and other co-sharers entered into an amicable partition to divide their landed properties, through which Tinkari was exclusively allotted the specific land identified as the Schedule-1 property. Holding absolute and unencumbered title, Tinkari subsequently transferred a portion of this land, designated as the Schedule-2 property, to the present plaintiff by executing a registered deed of sale bearing No.2159 on February 23, 1983. Notably, this transaction was executed in the direct presence of defendant no.1, who acted as a witness to the deed. From the exact date of this purchase, the plaintiff has maintained exclusive, continuous, and independent physical possession of the property, entirely unconcerned with and uninterrupted by any third-party claims.

3. The case further delves into intricate discrepancies within the official land records to substantiate the identity of the land. The property is fundamentally identified as C.S. Plot No.2816, a parcel measuring 8.42 acres that is naturally classified as *danga* land. However, during the Revisional Settlement operation, this tract was erroneously recorded under R.S. Plot No.3047 instead of the correct identifier, R.S. Plot No.3057. The plaintiff points out that while R.S. Plot No.3047 is materially

a very small area, the larger R.S. Plot No.3057 mistakenly included the smaller plot number within the Revisional Record of Rights due to a typographical oversight by the settlement staff. Despite this technical defect in the R.S. plot numbering, the actual area and physical boundaries of the land purchased by Tinkari Chakraborty and his brothers remained accurately defined. Later, during the Land Reforms operation, the revenue records were partially corrected to seamlessly reflect the plaintiff's name as the lawful owner, although an error regarding the natural classification of the land persisted.

4. The peaceable enjoyment of this property was abruptly disrupted on April 14, 2012, when the principal defendants began executing overt acts of disturbance against the plaintiff's possession. These defendants asserted a competing right to the land, claiming they had purchased the suit property from defendant no.6, who is alleged to be the daughter of Tinkari Chakraborty under the authority of a sale deed dated January 13, 2012. The plaintiff fiercely rejects this competing claim, branding the 2012 deed as a fraudulent, collusive and mere paper transaction that carries no legal validity. The plaintiff argues since Tinkari Chakraborty had already divested himself of all rights, title, and interest by selling the property to the plaintiff back in 1983, no subsequent heir, including the alleged daughter, could possess any residual legal authority to alienate or transfer the property a second time. The deceptive and invalid 2012 transaction has cast a serious cloud over the plaintiff's legitimate, long-standing title, the plaintiff has been forced to approach the court for comprehensive legal redress.

5. The principal defendants had emphatically challenged the maintainability of the proceedings contending the action was irretrievably vitiated on foundational grounds of non-compliance with the mandatory statutory scheme. It was vehemently urged that the suit suffered from a fatal infraction of procedural safeguards, specifically the absence of a mandatory pre-suit notice under Section 80(1) of the Code of Civil Procedure, thereby rendering the plaint liable to be rejected under the provisions of Order 7 Rule 11. Furthermore, a substantial defect of parties had been articulated, highlighting that the plaintiff failed to implead necessary recorded tenants holding distinct interests in respect of R.S. Plot No.3057 under the relevant Land Reforms Act, an omission that goes to the root of the matter.

6. A critical dimension of the dispute pertained to the description of the suit property, which the defendants assert was fundamentally vague, unspecific, and legally *non est*. It had been their specific contention that the plaintiff allegedly purchased an undemarcated portion of land without possessing actual knowledge, authority, or physical identity over R.S. Plot No.3057. In sharp contrast, the defendants trace a legitimate and unblemished trajectory of title originating from Tinkari Chakraborty, who held lawful possession over a comprehensive 1.40 acre block spanning R.S. plot nos.332, 350, and 3057. Upon his demise, the property devolved upon his daughter, Parul Chakraborty, who by dint of a registered sale deed with strictly defined boundaries, validly transferred the same to the answering defendants. Under such circumstances, the plaintiff could not have acquired any title or right of possession over the land. The

defendants explicitly impute a motive of willful manipulation, alleging that the plaintiff, by executing a deed devoid of genuine reference to R.S. Plot No.3057, engaged in a design to influence settlement employees and improperly insert his name into the Record of Rights during its preparation under the West Bengal Land Reforms Act, an action which cannot be sustained under close judicial scrutiny.

7. Based on the pleadings, the following issues were framed by the Trial Court:-

   i. Is the instant suit maintainable either in its form or with prayers?

   ii. Is the instant suit hit by the provisions of the law of limitation or principles of estoppel, waiver or acquiescence or section 34 of the Specific Relief Act or mis-joinder or non-joinder of parties?

   iii. Has the plaintiff succeeded in bringing in record the cogent evidence in record to substantiate his claim as regards the entitlement to the sum described in the schedule or any sum? If so, to what extent?

   iv. Has the C.S plot no.2816 configured during preparation of record of rights under WBEA Act as plot no. 3047? Or that C.S. Plot No. 3047 has been erroneously recorded instead of 3057?

   v. Had Tinkawri Chakraborty any title over R.S. Plot no.3047 or he had title over the property under R.S. Plot No. 3057?

   vi. What property did Tinkari intend to transfer in favour of the plaintiff?

vii. After transfer of the property described in the schedule of the deed no. 2159 dated 23.2.1983, had Tinkari Chakraborty any subsisting right over the suit plot no. 3047 and 3057?

viii. Had Parul, daughter of Tinkari inherited any interest in either of the plot?

ix. Has the property described in schedule-2 same identical with the property described in the schedule of the deed executed by Tinkari being no. 2159 dated 23.2.1983?

x. Is/are the plaintiff/parties entitled to the reliefs prayed embodied in the prayer clause?

xi. To what other relief/reliefs, either in law or in equity if any, are they entitled?

8. In order to prove the case, the plaintiff produced and examined a solitary witness, namely Arun Kumar Mandal, who deposed before the Court as PW-1. Conversely, in order to disprove the case and substantiate their defence, the defendants produced and examined two witnesses on their behalf, namely Gopal Prasad Kuiry and Md. Kuddus Khan, who were cited and examined as DW-1 and DW-2 respectively.

9. Having disposed of the issues, the learned trial judge decreed Title Suit No.76 of 2013 in part on contest with a cost of Rs.2000/- against the defendants, declaring the plaintiff's right, title, and interest over the suit properties detailed in Schedule-2, confirming the plaintiff's possession over the said properties, and permanently restraining the defendants from disturbing the plaintiff's peaceful possession thereof.

10. Being aggrieved by and dissatisfied with the judgment dated 26.09.2013 and decree signed on 03.10.2013 passed by the Learned Civil Judge (Senior Division), Purulia in Title Suit No.76 of 2012, the defendants preferred the an appeal being Title Appeal No.58 of 2014 (147 of 14) before the Learned Additional District Judge, 1st Court, Purulia.

11. By a judgment and order dated 26.02.2015 the Learned First Appellate Court allowed the aforesaid Title Appeal on contest against respondent no.1 and proforma respondent Nos.3 to 7, and *ex parte* against respondent no. 2, thereby setting aside the judgment and decree dated 26.09.2013 passed by the Learned Civil Judge (Senior Division), Purulia in Title Suit No.76 of 2012.

12. Being aggrieved by and dissatisfied with the judgment and decree dated 26th February, 2015 passed by the Learned Additional District Judge, 1st Court, Purulia in Title Appeal No.58 of 2014, reversing the judgment and decree dated 26th September, 2013 passed by the Learned Civil Judge (Senior Division), Purulia in Title Suit No.76 of 2012, the appellant preferred the instant second appeal before this Court on the grounds stated in the memorandum of appeal.

13. Vide an order dated 02.05.2016, a Division Bench of this Court was pleased to admit the instant second appeal, being S.A.T. 172 of 2015 with CAN 606 of 2016, on the following substantial questions of law:-

    i. Whether the findings of the learned First Appellate Court that the description of the suit property is vague and decree for declaration of title in respect of the suit property cannot be passed due to vagueness in its description, are perverse?

ii. Whether the learned First Appellate Court was justified in refusing to grant decree for recovery of possession in a case where the title of the plaintiff is proved but his possession could not be proved in a suit where relief by way of confirmation of possession was sought for by the plaintiff?

14. The Learned Advocate representing the appellant submitted as follows:-

i."Whether the Learned Judge of the Court of appeal below committed substantial error of law in not holding that record of rights, Exbt. B produced and relied upon by defendants are fabricated document on the face of it particularly in view of the fact that some portion of the said Exbt. B is handwritten thereby showing the same to be manufactured for the evil purpose of the defendants/respondents.

ii. Whether the Learned Judge of the Court of appeal below committed substantial error of law in not holding the document Exbt. B produced by the defendants is a fabricated document on the face of it and as such no reliance can be placed on the same by the Court of appeal below in the absence of any specific explanation as to the portion of the said Khatian Exbt. B is hand written.

iii. Whether the Learned Judge of the Court of appeal below committed substantial error of law in not holding that Exbt. 1 establishes purchase of CS Plot No. 2816 which corresponds to RS Plot No. 3057 particularly in view of the fact that C.S. Plot No. 2816 is identical in area with RS Plot No. 3057 and the reference of RS plot 3047 is nothing but a mistake appearing on the face of the record of rights.

iv. Whether the Learned Judge of the Court of appeal below committed substantial error of law in not taking into consideration the fact that no challenge has been thrown by and on behalf of the defendants regarding purchase of the CS Plot No. 2816 by the plaintiff from Tinkari and the area of land purchased by the plaintiff remain unchallenged by the defendants/respondents.

v. Whether the Learned Judge of the Court of appeal below committed substantial error of law in holding that plaintiff purchased the land comprised in Plot No. 3047 measuring only 9 decimal keeping the remaining area over and above 9 decimal owned by daughter of Tinkari, defendant/respondent no.6 which was sold by her in favour of defendants/respondents no. 1-5.

vi. Whether the Learned Judge of the Court of appeal below erred in not holding that defendant/respondent no.6 daughter of Tinkari, did not possess saleable interest in respect of land over and above the 9 decimals particularly when Tinkari in effect sold total 1.40 acres out of 9.20 acre comprised in CS Dag No. 2816.

vii. Whether the Learned Judge of the Court of appeal below committed substantial error of law in not holding that plaintiff in effect purchased the area mentioned in Exbt. I comprised in CS Plot 2816 when it could not be established that the area of CS Plot No. 2816 was never measuring area as mentioned in the said document Exbt.I.

viii. Whether the Learned Judge of the Court of appeal below committed substantial error of law in not holding that plaintiff could

establish his possession of 1.40 acre land comprised in CS Plot No. 2816 by overwhelming evidence on record when on the other hand defendants miserably failed to establish their possession on the land sold by Tinkari in favour of the plaintiff by Exbt.1.

ix. *Whether the Learned Judge of Court of appeal below committed substantial error of law in not holding that mere error appearing in the ROR, Exbt.-B cannot affect the title of the plaintiff conveyed in his favour by Exbt.I.*

x. *Whether the Learned Judge of Court of appeal below committed substantial error of law in not holding that mere error appearing in the ROR Exbt.-B cannot affect the title of the plaintiff conveyed in his favour by Exbt.I.*

xi. *Whether the Learned Judge of the Court of appeal below committed substantial error of law in holding that suit is not maintainable in view of Section 34 of Specific Relief Act notwithstanding the fact that plaintiff/appellant is in possession of the property which is wrongly held otherwise.*

xii. *Whether the Learned Judge of the Court of appeal below committed substantial error of law in not holding that retaining name of Tinkari after the sale made by him in favour of plaintiff cannot confer any right upon the heirs of Tinkari as to possession of saleable interest by them.*

xiii. *Whether the Learned Judge of the Court of appeal below committed substantial error of law in not holding that RS Plot No.*

804 3057 and Cs Plot No. 2816 are same and identical in area but, was otherwise shown in RS ROR and CS ROR respectively."

15. The Learned Advocate representing the appellant further submitted as follows:-

i. *"CS Plot No. 2816 measuring about 9 acres 20 decimal in Mouza- Pithati, P.S.- Arsha, District- Purulia, originally belonged to Rashbehari and Durgacharan Banerjee. On 12.10.1931 a partition deed was executed between Rashbehari and Durgacharan Banerjee; Rashbehari got 8 acres 42 decimal and Durgacharan Banerjee got 78 decimal of land (Exhibit 1/B). On 27.01.1959 Rashbehari sold out 8 acres 42 decimal to Tinkari Chakraborty and his four brothers and one sister (Exhibit 1/A); all of them having equal share in the share property i.e. 1/6th share. Thus the share of Tinkari in the said C.S. plot no. 2816 was 1.40 acres only (8 acre 42 decimal / 6 = 1 acre 40 decimal approx.). In 1966 Tinkari got his name mutated in the RSROR prepared under the West Bengal Estate Acquisition Act, 1953. However, there remained an error in the RROR i.e. CS Dag No. 2816 was wrongly recorded as RS Plot No. 3047, instead of 3057. Due to such erroneous RROR a dispute cropped up between Tinkari Chakraborty and the heirs of Durgacharan Banerjee for which Tinkari along with his brothers/ co-sharers instituted a title suit being Title Suit No. 32 of 1980 inter-alia praying for (a) decree of declaration of right title interest, (b) declaration that the RS record of rights is 10.03.2022 interim order*

of status-quo dated May 2, 2016, was made absolute by this Hon'ble Court.

ii. *While admitting the instant appeal the Hon'ble Court formed two substantial question of law. In reply to the first substantial question of law the plaintiff/ appellant submits that it is settled principle of law that the record of rights is not a title document. So the wrong entry in record of rights does not confer any title neither to the contesting defendants no. 1-5 nor their predecessor -in -interest. Moreover, the father of the vendor of the defendants no. 1-5 namely Tinkari Chakraborty himself filed title suit inter alia praying for declaration that the RS record of rights was incorrect and not binding upon the plaintiffs and permanent injunction being T.S. No. 32 of 1980. The suit decreed in 1982. The decree of the T.S.No. 32 of 1980 is an exhibited document being Exhibit No. 2 which clearly stated that "It is further declared that entries in R.S. Record of Rights in connection with suit schedule no. 3 properties are erroneous and not binding on the plaintiffs". The C.S. Plot No. 2816 comes under the schedule no. 3 property in T.S. No. 32 of 1980. After getting the decree the father of defendant no. 6 Tinkari sold his entire 1/6th share in the property i.e. 1 acre 40 decimal to the plaintiff/ appellant in 1983 who duly got his name recorded in the LRROR and this time the correction was made by the state authority and correct L.R Plot No. i.e. 3057 was recorded in favour of the plaintiff (Exhibit-4A). Therefore there is no vagueness in the description of the suit property, C.S plot no. 2816 wrongly recorded*

in the RROR as plot no. 3047 instead of 3057. Such wrong entries in the RSROR was declared by the competent civil court as incorrect and not binding on the parties. Thereafter correction made in the ROR and ultimately CS Plot No. 2816 reconfigured as LR Plot No. 3057 and correct LRROR was finally published having the name of the plaintiff/ appellant in LR Plot No. 3057 to the extent of 0.1667 share with area in possession 1 acre 40 decimal (Exhibit 4A). It is also be noted that LR record of rights having had finally published the court should not have entered into the dispute in view of clear bar under Section 51C of the WBLR Act as amended. Be it also mentioned that LR plot no 3047 (Exhibit 4) is a very small plot having only 9 decimal area and such small land neither curved out from CS plot no. 2816 nor plaintiff has any claim over that said plot.

iii. *In this context one case reference being AIR 1967 Cal 10 is being referred here where the Hon'ble High Court at Calcutta held that presumption of accuracy of the record or rights under Section 103b of the Bengal Tenancy Act and Section 44(4) of the West Bengal Estate Acquisition Act does not apply after a civil court decision is res judicata and binding on the parties. In this case also after declaring that RROR prepared under the WBEA Act was erroneous and not binding upon the parties by the competent Civil Court, the wrong entry in the RROR is not binding upon the plaintiff/ appellant herein.*

iv. *Moreover, Exhibit - 1 i.e. the purchase deed of the plaintiff executed in 1983 clearly mentioned CS Plot No. 2816 which means that*

Tinkari had an intention and sold out 1 acre 40 decimal land in CS plot no. 2816 to the plaintiff. Defendant no, 1 was a witness to this deed. Therefore the factum of sale was not unknown to the defendants. But only taking aid of wrong RSROR DW-1 in cross examination dated 24.06.2013 stated that plaintiff purchased land from Tinkari. DW-1 also stated that corresponding CS plot was 2816. After such admission in evidence there barely leaves any doubt regarding the ownership of the plaintiff in the suit plot. DW2 also confirmed the possession of the plaintiff over the suit property.

v. *In this context one case is being referred reported in 2021 Supreme (SC) 975 Akkamma and Ors. Vs. Vemavathi and Ors. Where the Hon'ble Apex Court held that when the trial court found that plaintiff is the owner of the suit property the court should have decreed the title of the plaintiff because there is no bar in granting standalone declaratory decree.*

vi. *On the contrary, the defendants no. 1-5/ respondents made contradictory statements in their written statement. In paragraph no. 12 of the written statement the defendants claimed that Tinkari was the owner of 1.40 acres of land but in paragraphs no. 23 and 29 claimed that Tinkari was the owner of 2.80 acres of land. Such contrary statement was made only to establish that even after selling of 1.40 acre to the plaintiff in 1983, Tinkari had saleable interest over 1.40 acre of land in RS plot no. 3047. But Exhibit-1A i.e. the title deed of Tinkari and others and Exhibit 3 i.e. RSROR of Tinkari clearly showed that Tinkari had only undividable interest to*

the extent of 1/6th share in the suit property which was 1.40 acre of land only and not more than that. In this context it is reiterated by the plaintiff/ appellant that RSROR since been declared erroneous and not binding upon the parties at the instance of Tinkari's civil suit, the defendants should not get any advantage by mentioning erroneous RSROR.

vii. It is also to be noted that Exhibit B filed by the contesting defendants is a forged document on the face of it. Thus Exhibit B should not have been taken into consideration. Exhibit-B is the plot information belonged to Gopal Prasad Kuiri, defendant/ respondent no. 5 herein. The original printed plot information contained only 3 plots. But defendants wrote LR Dag No. 3057 in hand with red ink along with two other plots but this attempt is a great failure because other information relating to the defendant no.5's lands were also mis-matching. Such type of forged document ought not to have been admitted in evidence specially in absence of proper attestation of the issuing authority or deposition of the issuing authority as an witness to that effect. Exhibit-A i.e. the title deed of the defendants, did not contain any detail of how Parul Chakraborty, defendant no. 6 herein, got the suit property. Recital was totally silent on that point. The contents of the defendants' deed and the contents of written statement are contrary to each other. In the deed no where it is stated that Tinkari had title and possession over 2.40 acres of land in the suit plot. Therefore defendants' exhibited documents do not going to help the defendants' / respondents' case."

16. The Learned Advocate representing the respondents submitted as follows:-

i. *"Maintainability of Suit:-*

The plaintiff's suit is fundamentally defective and liable to be dismissed for want of definite property description. The suit property, as described in Schedule 2 of the plaint, lacks identification by boundaries, which is essential in a declaratory and injunctive relief suit involving immovable property. As held in Sheodhyan Singh v.Sanichara Kuer (AIR 1963 SC 1879), identity of property is crucial, and omission of boundaries renders the decree unenforceable.

ii. *Incorrect Plot Number in Deed:-*

The plaintiff's title deed (Exbt. 1) cites R.S. Plot No. 3047 as the subject of sale. However, the reliefs claimed relate entirely to R.S. Plot No. 3057. There is no correction deed, amendment, rectification, or competent authority's clarification to support the plaintiff's assertion that this was a clerical error.

iii. *No Evidence of Plot Conversion:-*

The plaintiff failed to produce any certified conversion map, revenue records, or official documents demonstrating that C.S. Plot No. 2816 was ever converted to R.S. Plot No. 3057. The Revenue Records (Exbt.3 and Exbt. 4A) consistently show R.S. Plot No. 3047 as corresponding to C.S. Plot No. 2816.

iv. *Presumption in Favour of Official Records:-*

Under the West Bengal Land Reforms Act, certified Record of Rights entries carry a presumption of correctness. Ext. B (ROR) produced by the respondents shows their lawful ownership and possession. The plaintiff has neither challenged nor rebutted this by summoning any settlement official or adducing conclusive evidence of error.

v. *Failure to Establish Title:-*

It is trite that in a suit for declaration of title, the plaintiff must succeed on the strength of his own title and not on the weakness of the defendant's case M/S Roy and Company and Another us. Smt. Nanibala Dey and Others (AIR 1979 Cal. 50). The plaintiff's sale deed is self-defeating as it refers to a plot different from the one in dispute.

vi. *Lack of Proof of Possession:-*

The plaintiff has not examined any independent witness to support his claim of long-standing possession. His own testimony remains uncorroborated, vague, and lacking in specifics such as actual possession date, land use, or delivery of possession post-sale.

vii. *Credible Evidence of Respondents' Possession:-*

On the other hand, D.W.2, a cultivator of the land, categorically deposed that the respondents have been in possession of R.S. Plot No.3057. He denied any possession by the plaintiff and explained that the land is used by multiple parties including the respondents.

viii. *Legality of Respondents' Purchase:-*

The respondents purchased the suit land by Regd. Deed No. 90/2012 from Smt. Parul Chakraborty, the only daughter and legal heir of

Late Tinkari Chakraborty. There is no material to show that Parul was divested of title or that Tinkari had exhausted his rights over R.S. Plot No. 3057.

ix. *No Proof of Partition:-The plaintiff claims that Tinkari became sole owner of the disputed property after a family partition. However, no partition deed, memorandum, or decree has been exhibited. Mere oral assertion of partition is insufficient, particularly post-enactment of the West Bengal Land Reforms Act.*

x. *Ambiguity in Land Area and Boundaries:-*

The plaintiff inconsistently refers to the land area as 8.42 acres, 9.20 acres, and 1.40 acres in different parts of the plaint and evidence. The absence of specific boundaries and the shifting area figures cast serious doubt on the identity of the suit land.

xi. *Suit Barred by Section 34 of the Specific Relief Act, 1963:-*

The plaintiff has prayed only for declaration of title and confirmation of possession but has failed to pray for permanent injunction. The proviso to Section 34 of the Specific Relief Act, 1963 mandates that no declaration shall be made if consequential relief is omitted. Hence, the suit is legally barred and that has to be considered. Injunction constitutes a further or consequential relief within the meaning of this provision (C_Mohammed Yunus v. Syed_Unissa_and_Ors., AIR 1961 SC 808). Consequently, the suit is barred under Section 34 of the Specific Relief Act.

xii. *No Prayer Against Proforma Defendants:-*

Although several government officials have been impleaded as proforma defendants, no relief has been claimed against them. Further, no statutory notice under Section 80 CPC was served upon them. The suit is procedurally defective as against such parties. No leave was obtained under Section 80(2) CPC prior to filing suit against them.

xiii. *Failure to Corroborate Exhibits:-*

Exbt. 1 does not contain clear boundaries, mutation details, or confirmation of delivery of possession. Furthermore, the land area allegedly transferred is inconsistent with the plot area shown in the ROR. The deed cannot establish valid title under such circumstances.

xiv. *Effect of Subsequent Settlement Records:-*

Later records (Exbt. 4A and B) reflect respondents' names in the khatian with respect to R.S. Plot No. 3057. These are final and conclusive unless challenged through revenue or judicial proceedings, which the plaintiff has not done.

xv. *Admissions by Plaintiff:-*

In cross-examination, P.W.1 admitted that he could not state the exact area purchased or the date of possession. He also admitted that other persons were in possession of parts of R.S. Plot No. 3057. These admissions undermine his case.

xvi. *Trial Court's Presumption Unfounded:-*

The Learned Trial Court erroneously relied on a so-called "information slip" to infer that R.S. Plot No. 3057 was intended instead of 3047.

This is a speculative and impermissible inference not grounded in law or evidence.

xvii. *No Expert or Official Witness Examined:-*

The plaintiff did not summon any official from the Settlement or Land Records department to prove the alleged clerical error or misrecording in plot numbers. In a title suit involving land records, such omission is fatal.

xviii. *Respondents' Title Independent and Lawful:-*

Even assuming, without admitting, that the plaintiff had purchased a portion of the suit land, the respondents' title stems from a separate and lawful source - being inheritance through Parul Chakraborty, followed by registered conveyance. There is no contradiction or overlap proved.

xix. *No Estoppel Against Respondents:-*

The plaintiff has attempted to rely on alleged admissions by defendants to establish title. However, under Section 115 of the Indian Evidence Act, estoppel cannot override statutory title or ownership unless reliance and prejudice are proved - which is absent in this case.

xx. *No Substantial Question of Law:-*

The grounds urged in the Second Appeal pertain purely to factual appreciation of evidence, not to interpretation of any substantial question of law. As per settled law under Section 100 CPC (Kondiba Dagadu Kadam v. Savitribai Sopan Gujar, AIR 1999 SC 2213),

interference by the Hon'ble High Court is not warranted in pure findings of fact.

xxi. *Failure to Challenge ROR Entries Judicially:-*

The plaintiff never initiated any proceeding under the West Bengal Land Reforms Act or any other statute in force at the relevant point of time to rectify the alleged error in the Record of Rights. A person alleging clerical error has a legal remedy but must follow due process. The plaintiff's omission to do so casts serious doubt on his claims.

xxii. *Absence of Boundary Map or Survey Plan:-*

The plaintiff has not annexed any certified survey plan or sketch map identifying the precise location of the 1.40 acres he claims. This omission is critical in a title suit, particularly when plot identity is contested.

xxiii. *Deed Without Delivery of Possession Is Incomplete Transfer:-*

Even assuming the 1983 deed refers to some land, there is no proof that possession was ever delivered. Under Section 54 of the Transfer of Property Act, delivery of possession is an essential element unless possession is already with the transferee.

xxiv. *Silence from Co-Sharers of Tinkari:-*

The plaintiff relies on an oral partition among Tinkari and his co-sharers. Yet none of those other co-sharers have come forward to support his version. This absence undermines the alleged exclusive ownership of Tinkari over the suit land.

xxv. *Contradictory Area in Schedule and Evidence:-*

The plaint refers to 1.40 acres out of 8.42 acres in Schedule 2, whereas ROR shows Plot No. 3047 contains only 9 decimals. The remaining area must belong to someone else. The plaintiff's silence on the rest of the plot and its owners exposes the vagueness of his claim.

xxvi. *Estoppel from Denying Parul's Title:-*

The plaintiff failed to challenge the registered deed executed by Parul Chakraborty in 2012 before any court of competent jurisdiction. He cannot now collaterally impeach a registered deed in a suit filed years later.

xxvii. *No Injunction or Possession Complaint Filed Earlier:-*

Despite allegedly being dispossessed in April 2012, the plaintiff did not file any complaint under Sections 144 or 145 CrPC, or any application for temporary injunction until much later. This delay raises doubt about his actual possession.

xxviii. *Doctrine of Laches and Acquiescence:-*

The plaintiff sat idle for nearly three decades after the execution of the 1983 sale deed, during which he did not assert his rights actively. His inaction attracts the doctrine of laches and acquiescence, particularly when others have taken possession in the meantime.

xxix. *Conduct of the Plaintiff Suggests Afterthought:-*

The plea that the wrong plot number was recorded is raised only after the 2012 sale by Parul to the respondents. This appears to be

a retaliatory or afterthought strategy, rather than a bona fide title claim.

xxx. *The Plaintiff's Evidence is Self-Serving:-*

Apart from P.W.1 (the plaintiff himself, no neutral or independent witness has been produced to corroborate title or possession. Courts routinely disbelieve self-serving and uncorroborated oral statements.

xxxi. *Principle of Finality of First Appellate Findings:-*

The First Appellate Court, being the final court on facts, has reversed the decree of the trial court after evaluating all evidence. Its findings are reasoned and supported by the record. There is no perversity or illegality to warrant High Court interference under Section 100 CPC.

xxxii. *Equity Not in Plaintiff's Favour:-*

The respondents have been in settled possession, having purchased the land with defined boundaries and consideration from the legal heir of the previous owner. Equitable relief like declaration or injunction cannot be granted to the detriment of bona fide purchasers in possession."

17. The foundational matrix of the plaintiff/appellant's claim traces its legal genesis back to a large parent estate designated as Cadastral Survey (C.S.) Plot No.2816, encompassing an area of 8.42 acres out of a total 9.20 acres, classified as *danga* (arid upland) land, situated within Mouza-Pithati, under Arsha Police Station in the District of Purulia. This extensive property originally reposed in the joint ownership of two co-sharers, Rashbihari Banerjee and Durgacharan Banerjee.

18. The unity of possession between these co-owners was permanently and fundamentally severed on October 13, 1931, through the execution and registration of a formal deed of partition (Exhibit 1/B). By virtue of this partition, the specific 8.42-acre parcel was exclusively allotted to Rashbihari Banerjee, who entered into independent possession, completely unconcerned with the residual shares of Durgacharan.

19. Decades later, on January 27, 1959, Rashbihari Banerjee alienated his entire partitioned interest of 8.42 acres via a registered deed of sale bearing No.271 (Exhibit 1/A) in favor of Tinkari Chakraborty and his four brothers. By operation of the law governing joint family acquisitions without defined individual fractions, this purchase translated into an undivided one-sixth ($1/6^{th}$) fractional interest for each of the brothers. This mathematically isolated Tinkari Chakraborty's lawful, individual entitlement to an area computing to exactly 1.40 acres.

20. While these brothers were in active, peaceable, and visible physical possession of their purchased land, the state's settlement apparatus committed a clerical error during the Estates Acquisition operation in 1966. The settlement clerks incorrectly recorded the ancestral C.S. Plot No.2816 under the nomenclature of Revisional Settlement (R.S.) Plot No.3047 instead of its geographically and mathematically accurate counterpart, R.S. Plot No.3057. Aggrieved by this erroneous revenue entry, which cast an administrative cloud over their title, Tinkari Chakraborty and his brothers instituted a civil suit, registered as Title Suit No.32 of 1980, against the heirs of Durgacharan Banerjee and the State. This prior litigation concluded in favor of the Chakraborty brothers,

with the competent civil court explicitly decreeing in 1982 (Exhibit 2) that the entries in the R.S. Record of Rights swapping the plot identifiers were entirely incorrect, void, and fundamentally non-binding.

21. Following this judicial vindication, Tinkari Chakraborty and his co-sharers entered into an amicable partition to divide their landed properties, through which Tinkari was exclusively allotted the specific land identified as the Schedule-1 property. Holding absolute title, Tinkari subsequently transferred a portion of this land, designated as the Schedule-2 property (measuring 1.40 acres), to the present plaintiff by executing a registered deed of sale bearing No.2159 on February 23, 1983 (Exhibit 1). Notably, this transaction was executed in the direct presence of Defendant No. 1, who acted as an attesting witness to the deed.

22. From the exact date of purchase, the plaintiff asserts he maintained exclusive, continuous, and independent physical possession. Later, during the Land Reforms operation, the revenue records were partially corrected to seamlessly reflect the plaintiff's name as the lawful owner under Land Reforms (L.R.) Plot No.3057 to the extent of a 0.1667 share, reflecting an area of 1 acre and 40 decimals (Exhibit 4A).

23. The peaceable enjoyment of this property was abruptly disrupted on April 14, 2012, when the principal defendants began executing overt acts of disturbance against the plaintiff’s possession. These defendants asserted a competing right to the land, claiming they had purchased the suit property from Defendant No. 6, Parul Chakraborty – alleged to be the daughter of Tinkari Chakraborty – under a sale deed dated January 13, 2012 (Exhibit A).

24. The plaintiff fiercely rejects this competing claim, branding the 2012 deed as a fraudulent, collusive paper transaction carrying no legal weight. The plaintiff argues that since Tinkari Chakraborty had already divested himself of all rights, title, and interest by selling the property to the plaintiff back in 1983, no subsequent heir could possess any residual legal authority to alienate or transfer the property a second time. Because this deceptive 2012 transaction cast a serious cloud over the plaintiff's title, the plaintiff was forced to approach the court for comprehensive legal redress.

25. The principal defendants emphatically challenged the maintainability of the proceedings. They contended that the suit suffered from a fatal infraction of procedural safeguards, specifically the absence of a mandatory pre-suit notice under Section 80(1) of the Code of Civil Procedure upon the State of West Bengal, which was impleaded as a proforma defendant. They argued this omission rendered the plaint liable to be rejected under Order VII Rule 11. Furthermore, a substantial defect of parties was articulated, highlighting that the plaintiff failed to implead other recorded tenants holding distinct interests in respect of R.S. Plot No.3057.

26. The crux of the defence pertained to the description of the suit property, which the defendants asserted was fundamentally vague, unspecific, and legally non-est. It was their specific contention that the plaintiff allegedly purchased an undemarcated portion of land without possessing actual knowledge, authority, or physical identity over R.S. Plot No. 3057, as

Schedule II of the plaint was completely devoid of any specific four-corner boundary specifications.

27. In contrast, the defendants traced what they claimed to be a legitimate trajectory of title originating from Tinkari Chakraborty, who they alleged held lawful possession over a comprehensive 1.40-acre block spanning R.S. Plot Nos.332, 350, and 3057. Upon his demise, they asserted the property devolved upon his daughter, Parul Chakraborty, who by dint of a registered sale deed with strictly defined boundaries, validly transferred the same to the answering defendants in 2012. The defendants explicitly imputed a motive of willful manipulation, alleging that the plaintiff, by executing a deed in 1983 that referred to R.S. Plot No.3047, engaged in a design to improperly insert his name into the Record of Rights during its preparation under the West Bengal Land Reforms Act.

28. The arguments articulated by the learned Advocate for the appellant unfold a compelling and richly detailed narrative of title, meticulously structured to dismantle the findings of the courts below by demonstrating a seamless convergence of registered conveyances, prior judicial declarations, and rectified revenue records.

29. The crux of the present litigation, as the learned Counsel elucidated did not emerge from any intrinsic defect in the root of title, but rather from a clerical aberration committed by the State's revenue department. In the year 1966, when Tinkari Chakraborty sought to mutate his name in the Revised Survey Record of Rights (RSROR) prepared under the statutory framework of the West Bengal Estate Acquisition Act, 1953, a structural error corrupted the State repository; the revenue authorities wrongly

recorded the ancestral CS Plot No.2816 as RS Plot No.3047, instead of its mathematically and geographically correct counterpart, RS Plot No.3057. Taking opportunistic advantage of this bureaucratic oversight, the heirs of Durgacharan Banerjee sparked a bitter property dispute. To clear the cloud cast upon his legitimate ownership, Tinkari Chakraborty, alongside his sibling co-sharers, instituted Title Suit No.32 of 1980 before a competent Civil Court, praying *inter alia* for a decree of declaration of right, title, and interest, and a specific declaration that the RS entries were erroneous. This litigation culminated in a landmark civil court decree in the year 1982 (Exhibit 2), which explicitly adjudicated that the entries in the R.S. Record of Rights concerning the suit schedule properties were entirely incorrect, void and fundamentally non-binding upon the plaintiffs.

30. Armed with this clear, judicially vindicated title, Tinkari Chakraborty subsequently alienated his entire undivided (1/6th) share – the pristine 1 acre and 40 decimals – to the present plaintiff/appellant by executing a registered deed of purchase in the year 1983 (Exhibit 1). Following this conveyance, the appellant successfully set the machinery of the West Bengal Land Reforms (WBLR) Act in motion to permanently rectify the historical mapping error. The State Revenue Authorities, acting in consonance with the prior Civil Court decree, reconfigured the parent CS Plot No.2816 into the newly designated LR Plot No.3057. The final Land Reforms Record of Rights (LRROR) was subsequently published, officially registering the plaintiff/appellant's name under LR Plot No.3057 to the exact extent of a 0.1667 share, reflecting an area in physical possession of

1 acre and 40 decimals (Exhibit 4A). The learned Advocate for the appellant emphasizes this finalized LR record of rights attracts the absolute statutory bar under Section 51C of the WBLR Act, which expressly deprives civil courts of jurisdiction to entertain disputes that alter finalized revenue maps and records. To further eliminate any lingering ambiguity, Counsel clarifies that RS Plot No.3047 (Exhibit 4) is an isolated, minuscule parcel of land measuring a mere 9 decimals; it was never carved out of CS Plot No.2816, and the plaintiff sets up no claim over it whatsoever, rendering the respondents' reliance on it entirely irrelevant.

31. The legal jurisprudence underpinning the appellant's submissions rests upon the unassailable principle that a record of rights is a mere tool for revenue collection and possesses no inherent character of a title document. Consequently, an erroneous entry within such records can neither confer a valid title upon the contesting defendants (No. 1 to 5) nor strip the rightful purchaser of his lawful estate. Invoking the classic authority of AIR 1967 Cal 10, the learned Counsel underscores the rule that any statutory presumption of correctness attached to revenue records under Section 103b of the Bengal Tenancy Act or Section 44(4) of the WBEA Act instantly evaporates the moment a competent Civil Court delivers a definitive declaration on title, establishing the civil decree as *res judicata* and binding upon the parties. Furthermore, drawing structural strength from the Apex Court's dictum in *Akkamma and Ors. Vs. Vemavathi and Ors. (2021) Supreme (SC) 975*, it is urged that when a trial court finds a plaintiff to be the true owner of the suit property, it is under

a judicial obligation to decree the suit, as there is no legal impediment to granting a standalone declaratory decree.

32. In stark contrast, the defence erected by the contesting respondents is exposed as a fragile edifice compromised by profound internal contradictions and procedural manipulation. The learned Advocate reveals a fatal dichotomy within the defendants' pleadings, demonstrating that while paragraph 12 of their written statement concedes that Tinkari Chakraborty was the owner of only 1.40 acres of land, paragraphs 23 and 29 abruptly shift positions to claim that Tinkari owned 2.80 acres. This clumsy, mathematically impossible inflation was clearly manufactured to invent a fictitious residual "saleable interest" over RS Plot No.3047, in a desperate bid to argue that Tinkari still had land left to pass on to them after his 1983 transaction with the plaintiff. This defensive posture completely disintegrated during oral evidence; in a cross-examination dated June 24, 2013, Defendant Witness 1 (DW-1) explicitly admitted that the plaintiff had indeed purchased the land from Tinkari and that the corresponding cadastral plot was 2816, while defendant witness-2 (DW-2) unequivocally corroborated the plaintiff's uninterrupted physical possession over the suit property.

33. To conclusively seal the fate of the defence, the Learned Advocate for the appellant directs this Court's attention to Exhibit B, a plot information sheet filed by respondent no.5, Gopal Prasad Kuiri, branding it a manifest forgery on its face. The original printed document generated by the state authorities contained only three plots, but the defendants fraudulently inserted "LR Dag No. 3057" by hand using red ink. Devoid of any official

attestation by an issuing authority, and utterly contradicted by the mismatching land descriptions of respondent no. 5's actual holdings, this tainted document ought to have been rejected out of hand. When juxtaposed against the defendants' own title deed (Exhibit A), which remains completely silent as to how defendant no. 6, Parul Chakraborty, ever legally acquired the suit property from Tinkari, the respondents' claims are revealed to be legally impotent. In light of this exhaustive array of registered title deeds, an unassailable 1982 civil decree, and the explicit admissions elicited from the defendants' own witnesses, the Learned Counsel implores this Court to sweep aside the erroneous findings of the Courts below and decree the suit in favor of the appellant.

34. The submissions advanced by the Learned Counsel appearing on behalf of the contesting respondents present an exhaustive and meticulously woven tapestry of law and fact, seeking to fortify the reversing judgment of the First Appellate Court by demonstrating an absolute failure on the part of the plaintiff to satisfy the fundamental legal and evidentiary criteria governing actions for the declaration of title and recovery of possession. The respondents strenuously contend that the plaintiff's suit is fatally hit by an irremediable vagueness in the description of the subject matter, rendering the action entirely unmaintainable. It is pointed out that the property set forth in Schedule II of the plaint is conspicuously devoid of any boundary specifications or dimensional delineations, a structural omission that directly contravenes the mandate of Order VII Rule 3 of the Code of Civil Procedure, 1908. Relying upon the authoritative dictum of the Supreme Court in *Sheodhyan Singh v. Sanichara Kuer (AIR 1963 SC*

1879), the respondents urge that where a claim for immovable property is contested, the boundaries must be established with definitive certainty, as an omission of boundaries inevitably renders any subsequent decree a brutum fulmen, entirely incapable of execution on the ground.

35. The Learned Counsel further exposes a fundamental, self-defeating contradiction between the plaintiff's foundational title document and the reliefs sought in the plaint. The plaintiff's registered purchase deed of 1983, marked as Exhibit 1, explicitly and unambiguously names RS Plot No.3047 as the demised property, yet the plaintiff has sought a declaration of right, title, and interest over an entirely different parcel, namely RS Plot No.3057, without the support of any registered deed of rectification. The respondents argue that it is an axiomatic principle of the law of conveyancing that a party cannot claim title to a plot that is completely alien to the four corners of his title deed.

36. The evidentiary structure of the plaintiff's case is further assailed for its total reliance on unauthenticated, secondary documentation to establish the alleged transformation of plots. The respondents highlight the plaintiff has failed to produce any certified conversion map, revenue records or official layout plan prepared by the settlement authorities to show that Cadastral Survey (CS) Plot No.2816 was ever structurally reconfigured into RS Plot No. 3057. On the contrary, the revenue records exhibited by the parties consistently negative this theory. Under the provisions of the West Bengal Land Reforms Act, 1955, the entries in a finally published Record of Rights enjoy a statutory presumption of correctness. The plot information sheets, including Exhibit B, stand as an un-rebutted

reflection of the respondents' proprietary interest. Invoking the settled principle enunciated by the Calcutta High Court in *M/S Roy and Company and Another v. Smt. Nanibala Dey and Others (AIR 1979 Cal. 50)*, it is urged that in a suit for declaration of title, the plaintiff must succeed on the strength of his own title rather than the weakness of the defence, rendering the plaintiff's reliance on a sale deed that refers to an entirely different plot inherently self-defeating.

37. The respondents further contend the plaintiff's case founders upon the rock of actual physical possession. A critical examination of the record reveals that the plaintiff did not examine a single independent witness from the locality, such as contiguous owners or village elders, to corroborate his claim of continuous physical enjoyment or to fix the date of his alleged dispossession in April 2012. Conversely, the defence has brought forward the compelling, consistent testimony of DW-2, an actual cultivator of the soil, who categorically deposed that it is the respondents who are in settled, open, and uninterrupted physical possession of RS Plot No.3057, utilizing the land to the absolute exclusion of the plaintiff. The respondents' possessory and proprietary rights are rooted in a valid, independent legal source, specifically a registered deed of conveyance bearing No.90 of 2012, executed in their favor by Smt. Parul Chakraborty, who is admittedly the only daughter and sole legal heir of the late Tinkari Chakraborty. The plaintiff has placed no material on record to demonstrate that Smt. Parul Chakraborty was ever legally divested of her right of inheritance, or that Tinkari Chakraborty had exhausted his entire interest in the suit plot during his lifetime. While the plaintiff has argued

that Tinkari Chakraborty became the exclusive owner of the land by virtue of an internal family arrangement, such a claim remains a mere statement of convenience, completely unsupported by any registered partition deed or memorandum of settlement, which is an imperative requirement under the law to extinguish jointness of property, disproving the eventuality of a partition.

38. The Learned Counsel for the respondents also invites this Court's attention to the fluid, fluctuating, and wholly inconsistent figures introduced by the plaintiff regarding the total land area in question. Throughout the pleadings and the evidence, the plaintiff oscillates between descriptions of 8 acres 42 decimals, 9 acres 20 decimals, and 1 acre 40 decimals, without producing a certified sketch map or survey report to isolate and locate the exact geographical coordinates of the 1 acre 40 decimals he claims. This ambiguity becomes fatal when the identity of the land is actively disputed. Furthermore, the suit is hit by an absolute statutory bar under the proviso to Section 34 of the Specific Relief Act, 1963. The plaintiff has merely sought a standalone declaration of title and a confirmation of possession, but has consciously omitted to pray for the consequential relief of a permanent injunction against the respondents. Relying on the celebrated decision of the Supreme Court in *C. Mohammed Yunus v. Syed Unissa and Ors. (AIR 1961 SC 808)*, it is urged that no declaration can be made where a mandatory consequential relief is omitted, making the suit legally barred since a suit for mere declaration without seeking further mandatory relief cannot be entertained by a court of law.

39. The respondents further argue that the suit suffers from a fatal procedural defect owing to the non-service of the mandatory statutory notice under Section 80 of the Code of Civil Procedure, 1908, upon the State of West Bengal and its revenue officials, who were impleaded as proforma defendants. No leave of the Court was obtained under Section 80(2) to institute the suit without such notice, thereby vitiating the entire proceedings *ab initio*. The respondents emphasize that during cross-examination, the plaintiff, deposing as PW-1, made catastrophic admissions that completely dismantled his own case. He explicitly admitted his inability to state the precise boundaries of the land he allegedly purchased, confessed that he could not remember the exact date on which he entered into possession, and candidly conceded that other third parties were cultivating and occupying distinct portions of RS Plot No.3057. The Trial Court's reliance upon a mere unauthenticated, loose information slip to draw a sweeping inference that RS Plot No.3047 was a clerical error for RS Plot No.3057 was an exercise in pure conjecture and an impermissible leap of logic. The plaintiff's total failure to initiate any lawful proceedings for the correction of the Record of Rights before the appropriate revenue forums over a span of nearly thirty years demonstrates a deep-seated inertia and an implicit acquiescence to the correctness of the records. It is further pointed out that while the plaintiff sets up an expansive claim over 1 acre 40 decimals, the Record of Rights shows that RS Plot No.3047 consists of a minuscule area of merely 9 decimals; yet the plaintiff has maintained a stony silence regarding the

remaining vast portion of the land or the identity of its co-owners, further underscoring the speculative nature of his action.

40. The plaintiff is further precluded from collaterally impeaching the registered deed executed in favor of the respondents in the year 2012. Having failed to challenge that instrument before a court of competent jurisdiction within the statutory period of limitation, the plaintiff is now legally estopped from questioning the validity of the respondents' title or the capacity of Parul Chakraborty to execute the same. The plaintiff has attempted to build his case upon certain isolated statements made by the defendants in other proceedings, asserting them to be admissions of his title. However, under Section 115 of the Indian Evidence Act, 1872, the doctrine of estoppel cannot override an absolute statutory title, and an admission on a question of law or a mistaken statement of fact cannot create a title where none exists. The subsequent settlement records, including Exhibit 4A and Exhibit B, which record the respondents' names in the *khatian* with respect to RS Plot No.3057, must be treated as final and conclusive unless set aside through due process of law. The conduct of the plaintiff speaks volumes of his lack of bona fides, having remained entirely passive for nearly three decades after his purported purchase in 1983 without setting up any visible markers of ownership. Despite his claim of a sudden, forcible dispossession in April 2012, the plaintiff did not lodge any immediate possessory complaints under Section 145 of the Code of Criminal Procedure, 1898, nor did he move the Court for an *ad interim* temporary injunction at the earliest opportunity, which strongly indicates the theory of an erroneous plot entry is a manufactured,

retaliatory afterthought designed to disrupt the respondents' peaceful enjoyment.

41. In conclusion, the respondents urge that the grounds raised in this Second Appeal do not touch upon any substantial question of law, but relate purely to the appreciation of facts and evidence. Under Section 100 of the Code of Civil Procedure, 1908, and in line with the landmark dictum in *Kondiba Dagadu Kadam v. Savitribai Sopan Gujar (AIR 1999 SC 2213)*, it is settled position that the High Court cannot sit as a third court of facts to reverse the findings of the First Appellate Court unless those findings are demonstrated to be perverse, irrational or shocking to the judicial conscience. The First Appellate Court, as the final arbiter of facts, thoroughly analyzed the entire documentary and oral evidence, detected the foundational vulnerabilities in the plaintiff's chain of title, and rightly dismissed the suit. Equity, law, and possessory rights reside firmly with the respondents, who are bona fide purchasers for valuable consideration, and their settled possession over a clearly identifiable piece of land cannot be disturbed at the instance of a negligent and unproved claimant.

42. The First Appellate Court reversed the Trial Court's decree primarily on the ground that the description of the suit property in Schedule II of the plaint was vague, unspecific, and non-compliant with Order VII Rule 3 of the Code of Civil Procedure (CPC), 1908.

43. The Principle of Identity Over Nomenclature is a well-settled canon of property law that where there is a conflict between the plot number, the area, and the boundaries, or where a clerical error creep into the plot

number, the identity of the property must be gathered from the totality of the transaction and the parent title.

44. The parent estate, Cadastral Survey (CS) Plot No. 2816 (measuring 8.42 acres out of 9.20 acres after a registered partition in 1931), was sold to Tinkari Chakraborty and his brothers in 1959 via Deed No.271. When the settlement authorities committed a clerical error during the Estates Acquisition (EA) operation by recording CS Plot No.2816 as Revisional Settlement (RS) Plot No. 3047 instead of RS Plot No.3057, Tinkari and his brothers successfully filed Title Suit No.32 of 1980.The civil court in 1982 (Exhibit 2) explicitly declared that the RS entry was erroneous and void.

45. When Tinkari sold his undivided 1/6th share (1.40 acres) to the plaintiff in 1983 via Deed No. 2159 (Exhibit 1), the deed referenced the plot number currently active in the revenue records due to the state's failure to update its maps immediately. However, the physical identity, the area (1.40 acres), and the root of the title (derived from CS Plot No.2816) remained perfectly constant. Under cross-examination, defendant witness-1 (DW-1) explicitly admitted that the plaintiff had purchased the land from Tinkari Chakraborty and that the corresponding cadastral plot was 2816. Once the identity of the land is admitted by the defence, the argument of "vagueness" evaporates. The First Appellate Court completely ignored this vital admission, rendering its finding perverse.

46. The First Appellate Court erred in holding that because the plaintiff sought a “confirmation of possession” but the defendants alleged they were in physical possession, the suit must fail completely in the absence of a specific alternative prayer for “recovery of possession.”

47. As ruled by the Supreme Court in *Akkamma v. Vemavathi (2021)*,once a plaintiff successfully proves absolute underlying title to a property, the court is under a judicial obligation to protect that title. If the Court finds the plaintiff has title but has been subtly or forcefully dispossessed during the pendency or immediately prior to the suit, the Court can grant a decree for recovery of possession under the umbrella of a declaration of title.

48. In view of the proviso to Section 34 of the Specific Relief Act, 1963, the respondents argued the suit is barred because the plaintiff did not seek consequential relief. However, the plaintiff explicitly prayed for a permanent injunction to restrain the defendants from disturbing his peaceable possession. A permanent injunction satisfied the requirement of "further relief" under Section 34 of the Specific Relief Act.

49. Following the 1983 purchase, the plaintiff successfully moved the revenue authorities under the West Bengal Land Reforms (WBLR) Act. The visible error was permanently rectified: CS Plot No.2816 was mapped to Land Reforms (LR) Plot No.3057, and the plaintiff's name was officially published in the Record of Rights (LRROR) for a 0.1667 share (1.40 acres) under Exhibit 4A. Under Section 51C of the WBLR Act, there is an absolute bar on civil courts altering these finalized revenue maps, and the First Appellate Court had no authority to ignore this finalized statutory presumption of ownership and possessory right.

50. The role of the High Court in deciding a Second Appeal under civil law, specifically under Section 100 of the Code of Civil Procedure, 1908, is structurally unique and limited. It does not act as a regular court of facts,

but rather as a constitutional guardian of legal purity. While a First Appeal is a matter of right where the court re-evaluates both facts and law, a Second Appeal is strictly confined to the adjudication of a substantial question of law.

51. The High Court is bound by the findings of fact recorded by the Trial Court and the First Appellate Court, even if those findings are arguably incorrect or poorly reasoned. The High Court cannot substitute its own opinion on facts or re-examine oral and documentary evidence to see if it can reach a different conclusion.

52. The High Court can breach the wall of "finality of facts" only if the lower court's findings suffer from perversity. Perversity occurs when a Trial Court or the First Appellate Court takes into consideration completely irrelevant evidence while ignoring material evidence and reaches a conclusion that is so completely irrational that no reasonable person could ever arrive at it. A finding is based on absolutely zero evidence on the record.

53. Therefore, the High Court is bound by the following depositions of the plaintiff/appellant being uncontroverted in cross-examination and the deposition of the defendants.

54. PW-1 being the plaintiff in his examination-in-chief *inter alia* stated as follows:-

> "… *8. That in the aforesaid manner I, the sole plaintiff came into title and possession on the suit land which is described in schedule 2 of the plaint and which is the part of schedule 1 land and the transferor*

Tinkari Chakraborty divested all of his right, title, interest and possession on the suit land.

…

11. That in my title purchased Deed bearing No.2159 of 1983 the R.S. Plot has been mentioned as R.S. Plot No.3047 but its area and C.S. Plot No. has been rightly mentioned and I am in title and possession on the schedule 2 land as per my title deed.

12. That it is submitted that the defendant No.1 Hagru Gorai is an attesting witness of my aforesaid title Deed and he has clear idea that I am in title and possession on the suit land described in schedule 2 of the plaint by demarcating the same by fencing.

13. That it is submitted that at the time of L.R. Operation the suit land has been recorded in my name but the class of land wrongly mentioned as "Bahal" instead of "Danga".

14. That the principal defendants Nos.1 to 5 in collusion with the principal defendant No.6, the alleged daughter of Tinkari Chakraborty creating a Sale deed bearing No.90 dated 13.01.2012 in respect of my suit land and they were trying to disturb my peaceful possession on the suit land and hence this suit.

15. That it is submitted that since purchase I am in title and possession on the suit land and the vendor Tinkari Chakraborty and or his heirs or heiress have no subsisting interest on the suit land or any portion of the schedule 2 land and the principal defendant No.6, the alleged daughter of Tinkari Chakraborty has no saleable interest or any kind of interest on the suit land.

16. That by the aforesaid manufactured Sale Deed No.90 of 2012 the principal defendant Nos.1 to 5 have not acquired any right, title, interest or possession on the schedule 2 land or any portion of the same.

17. That only to disturb my peaceful possession on the suit land, in collusion with each other the principal defendant Nos.1 to 6 created and manufactured the aforesaid sale deed which has no force in the eye of law and nothing but a mere paper transaction.

…

27. That the defendant Nos. 1 to 5 did not and could not acquired any right, title, interest or possession on the suit land by the any document executed by the alleged daughter of Tinkari Chakraborty who had no subsisting interest on the suit land."

55. During cross-examination of PW-1 *inter alia* stated as follows:-

"*1. The remaining land in plot no.3057 remains with the Babus at Kolkata; my deed contents both the plots nos.3057 and 3047; I cannot recollect the specific area of each of the plot I have purchased; my deed does contents boundary; I have claimed the plot no.3057; I have not gone through the deed; this plot should have a reference in my deed; the recorded tenants do possess it; I have not stated that plot no.3057 was originally 3047;*

…

3. I have purchased with boundaries; I am not in position to state the possession of the owners of this plot direction wise nor the details the brothers of Tinkari Chakraborty; transfers have been made by co-share of Tinkari but not by his brothers, descendants; 1.40 acre has been

recorded in my name, it is in respect of Tinkari's share; both the share will be obtained by me; I have purchased 1.40 acre;

4. The metal road is in the middle of plot no.3057; the road was prepared not before a long time, not a fact it was made with permission from Chakrabortys; the said road runs southwards thereafter eastwards;

…

6. The possession is according to entries in the ROR;"

56. DW-1 in his cross-examination *inter alia* stated as follows:-

"… 2. I know Tinkari Chakraborty; they were five brothers; I also know the CS plot no.2816 measuring 9.20 acre; I do not know to whom it belonged nor hal plot 3047 corresponding to its CS plot numbers nor that of 3057; it was purchased by Tinkari Chakraborty and his other brothers but to whom is not known to me; no such CS plot does exist at all.

3. It is fact that I have not seen the deed standing in the name of Tinkari Chakraborty but I have seen the ROR in their name; 1.40 acre stands in his name in that ROR.

4. I do not know the area of plot no.3047".

57. DW-2, in his cross-examination *inter alia* stated as follows:-

"*… 2. I know Arun Kr Mandal has two other brothers; it is fact that his brothers also purchased land along with him.*

3. I do not know the kht. no. but plot no.3057; total area is 9.15 acre; we are in possession a portion of property under license of owners; the record has been prepared in our name to that eflect.

4. The property originally belong Rashbihari Bannerjee and thereafter it was purchased to Tinkari Chakraborty; Rashbihari had no other brothers; I am a licensee under Durgacharan Chakraborty; Tinkari purchased all the properties of Rashbihari; I do not know the area nor the number of brothers of Tinkari; Parul Chakraborty possess the property which Rashibari possessing.

…

7. I have not found the deed standing in favour of Arun by Tinkari Chakraborty nor I have found Parul Chakraborty.

8. I do not know the date on which the defendant purchased from Parul Chakraborty : I found Tinkari when he was in police service before his purchase".

58. Under the provisions of Order VII Rule 7 while deciding a second appeal, the High Court is not tethered to the rigid, imperfect remedies passed down by the First Appellant Court. If the High Court answers the formulated substantial question of law in favour of the appellant, it holds the power to completely discard the First Appellante Court's decree and restore the Trial Court's findings. Furthermore, under Order VII Rule 7 of the CPC, the High Court can mould the final relief to match the substantive law proved, ensuring that form does not defeat absolute justice (e.g., ordering a transformation from a prayer of "confirmation of possession" to a decree for "recovery of possession" from a trespasser.

59. The Learned Advocate for the appellant submitted a compelling narrative of title, meticulously structured to demonstrate a seamless convergence of registered conveyances, prior judicial declarations, and rectified revenue

records. He argued that the parent estate, C.S. Plot No.2816, was definitively split by the 1931 partition deed, and Tinkari Chakraborty's 1.40-acre share was an absolute, identifiable interest.

60. Counsel heavily relied upon the 1982 civil court decree (Exhibit 2) in Title Suit No.32 of 1980, which had already adjudicated that the R.S. entries swapping Plot Nos. 3047 and 3057 were entirely incorrect and void. He urged that when Tinkari executed the 1983 sale deed (Exhibit 1) referencing the active R.S. number, the underlying identity of the land remained perfectly secure and judicially cleared.

61. The appellant further emphasized that the state revenue authorities eventually corrected this historical mapping error during the Land Reforms operation, officially publishing the L.R. Record of Rights (Exhibit 4A) in the plaintiff's name under L.R. Plot No.3057. Counsel invoked **Section 51C of the West Bengal Land Reforms Act, 1955**, to argue that this finalized statutory entry creates an absolute bar on civil courts altering finalized revenue maps.

62. To expose the fragility of the defense, the appellant directed this Court's attention to the cross-examination of the defence's own witness, DW-1, who explicitly admitted that the plaintiff had purchased the land from Tinkari and that the corresponding cadastral plot was 2816. He branded the defendants' Exhibit B as a manifest forgery, pointing out that "LR Dag No.3057" was crudely hand-written in red ink without any official attestation. He concluded that since Tinkari had divested himself of all rights in 1983, his daughter inherited nothing, rendering the 2012 deed a legal nullity.

63. In opposition, the Learned Counsel for the contesting respondents presented an exhaustive argument seeking to fortify the reversing judgment of the First Appellate Court. He strenuously contended the property set forth in Schedule-II of the plaint was conspicuously devoid of any boundary specifications or dimensional delineations, a structural omission that directly contravened the mandate of **Order VII Rule 3 of the CPC**. Relying upon *Sheodhyan Singh v. Sanichara Kuer (AIR 1963 SC 1879)*, he urged an omission of boundaries inevitably renders any subsequent decree a *brutum fulmen*, entirely incapable of execution on the ground.

64. The respondents further argued that the plaintiff's 1983 deed explicitly named R.S. Plot No.3047 as the demised property. In the absence of a registered deed of rectification or a civil decree modifying the contract under Section 26 of the Specific Relief Act, 1963, the plaintiff cannot use oral evidence to substitute one plot number for another. He invoked **Sections 91 and 92 of the Indian Evidence Act, 1872**, to argue that oral narratives cannot be admitted to contradict or vary the written terms of a registered document.

65. Counsel also asserted that the plaintiff failed to examine any independent local witnesses to corroborate continuous physical enjoyment or his alleged dispossession in April 2012. Conversely, the defense brought forward the consistent testimony of DW-2, an actual cultivator, who deposed that the respondents are in settled, open possession. He maintained that the respondents' rights are rooted in a valid, independent

legal source – the 2012 deed executed by Parul Chakraborty, the sole legal heir of Tinkari.

66. Finally, he argued the suit was hit by the absolute statutory bar under the proviso to Section 34 of the Specific Relief Act, as the plaintiff merely sought a standalone declaration and confirmation of possession, consciously omitting a proper prayer for recovery of possession. He also highlighted the non-service of notice under Section 80 of the Civil Procedure Code upon the State, contending it vitiated the entire proceedings *ab initio*.

67. The first substantial question of law requires this Court to evaluate whether the First Appellate Court's branding of the suit property description as "vague" constitutes judicial perversity.

68. The First Appellate Court concluded that the absolute absence of specific four-corner boundaries in Schedule II of the plaint, which mirrored the schedule of the 1983 title deed, was fatal to the suit under Order VII Rule 3 of the Civil Procedure Code. This finding represents a severe misconstruction of property law and conveyancing jurisprudence.

69. The statutory mandate of Order VII Rule 3 is **not** that a plaint *must* contain boundary descriptions under all circumstances. The clear text of the rule dictates that the plaint must contain a description **sufficient to identify the property**. The law provides alternative, equally reliable methods of identification.

70. It is a well-settled canon of property law that where an administrative, clerical, or typographical error creeps into a plot number during rapid settlement survey operations, the true identity of the land must be

gathered from the totality of its parent title and its historical lineage, rather than relying blindly on an isolated, incorrect survey identifier.

71. The legal maxim ***certum est quod certum reddi potest*** – that is certain which can be made certain—directly applies to the facts of this case. While Schedule II lacked boundary lines, it explicitly identified the exact area of 1.40 acres tied directly to the parent tract of C.S. Plot No.2816. A government survey plot number is considered the most precise marker in land administration because it refers to a fixed, officially mapped coordinate within the state's land registry. By referencing the parent plot number and the precise acreage derived from the registered 1931 partition deed, the property description was legally complete. The plot number implicitly references fixed coordinates within the state's mapping infrastructure, meaning the boundaries are legally present by proxy.

72. Furthermore, the historical plot identifier mismatch between R.S. Plot No.3047 and R.S. Plot No.3057 had already been fully litigated and judicially settled by a competent civil court in **Title Suit No. 32 of 1980**. The 1982 Civil Court decree (Exhibit 2) explicitly ruled that the Revisional Settlement entries swapping these plot identities were incorrect, void, and non-binding.

73. When Tinkari Chakraborty sold the 1.40 acres to the plaintiff in 1983, his title had already been judicially cleared of this mapping defect. The plaintiff was not required to secure a formal deed of rectification; the 1982 civil court decree had already judicially cured the identity of the property. The First Appellate Court sat as a lower court of facts and had absolutely

zero legal authority to overturn or ignore the binding finality of that 1982 decree.

74. The defence's argument of vagueness completely collapses when juxtaposed against the explicit oral admissions elicited during the trial. Under cross-examination, Defendant Witness 1 (DW-1), Gopal Prasad Kuiry, explicitly admitted that the plaintiff had indeed purchased the land from Tinkari Chakraborty and explicitly confirmed that the underlying parcel was parent Cadastral Plot No.2816.

75. Under Section 58 of the Indian Evidence Act, 1872, facts admitted need not be proved. It is a severe legal contradiction for the defendants to argue that a property is completely unidentifiable while their own primary witness explicitly identifies its historical origin and boundaries during testimony.

76. The Hon'ble High Court of Bombay, in the case of ***GODAWARIBAI PURUSHOTTAM BAWASKAR* vs. *SITARAM BHAGWAN PAITHANE AND OTHERS***[1], has made the following observations: -

> ***"10.*** *In this regard the provision of Order 7, Rule 3 of Civil Procedure Code being material is quoted as under : Order 7, Rule 3:*
>
> > *"3. Where the subject-matter of the suit is immovable property - Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers."*
>
> ***12.*** *The very purpose of Order 7, Rule 3 of the Civil Procedure Code is to ensure that there is description of the suit property sufficient to identify the same, which is with the intent and purpose that in case a decree is passed, it ought to be an executable decree and does not remain a mere paper decree.*

[1] 2020 SCC OnLine Bom 2043

13. *In Laxman Singh v. Jagannath, (2000) 1 MP LJ 79 : 1999 SCC OnLine MP 271 it has been held as under:*

> *"10. The purpose of Order 7, Rule 3 of the Code is that unless the plaintiff indicates the identity of the property claimed by him either by means of boundaries or by means of map as required by Order 7, Rule 3 of the Code, it would be difficult for the Court to find whether the plaintiff has title to the property claimed and whether any encroachment or dispossession has been made by the defendant. Thus the duty of the party is to give description sufficient to identify the property in dispute. If such decree is passed, it shall be unworkable. The Court can only pass a decree which can be executed under Order 21 of the Code"*

15. *Similar position is reiterated in Zarif Ahmad (Dead) Through Legal Rep. v. Mohd. Farooq, 2015 Mah LJ OnLine (SC) 126 : (2015) 13 SCC 673, in the following words:*

> *"11. The object of the above provision is that the description of the property must be sufficient to identify it. The property can be identifiable by boundaries, or by number in a public record of settlement or survey. Even by plaint map showing the location of the disputed immovable property, it can be described."*

17. *It is trite to say that for the purpose of obtaining an effective decree which can be executable in law, the correct identifiable description of the suit property is a must, otherwise the decree remains a paper decree, unexecutable due to non-identification of the property to which it relates.* ***"***

78. The Hon'ble Supreme Court, in the case of ***ZARIF AHMAD AND ANOTHER*** **vs.** ***MOHD. FAROOQ***[2], has made the following observation: -

> ***"11.*** *Order 7 Rule 3 of the Code of Civil Procedure, 1908 (for short "CPC"), which pertains to the requirement of description of immovable property, reads as under:*
>
> > *"**3.Where the subject-matter of the suit is immovable property**.—Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be*

[2](2015) 13 SCC 673

identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers."

*The object of the above provision is that the description of the property must be sufficient to identify it. The property can be identifiable by boundaries, or by number in a public record of settlement or survey. Even by plaint map showing the location of the disputed immovable property, it can be described.***"**

79. The Hon'ble Supreme Court, in the case of ***P. CHANDRASEKHARAN AND OTHERS* vs. *S. KANAKARAJAN AND OTHERS***[3], has made the following observation: -

> ***"10.*** *The plaintiff, before his suit is decreed, must establish the cause of action in respect of the property in question wherefor the relief for recovery of possession has been claimed. In case the suit is decreed, the executing court must be able to deliver possession thereof and thus there cannot be any doubt whatsoever that the property in suit must be adequately identifiable. When such a relief is claimed the plaintiff must show what he had purchased and how the court, in the event a dispute arises, would determine the identity of the property.***"**

80. The Hon'ble Supreme Court, in the case of ***PRATIBHA SINGH AND ANOTHER* vs. *SHANTI DEVI PRASAD AND ANOTHER***[4], has made the following observations: -

> ***"15.*** *Order 7 Rule 3 CPC requires where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it. Such description enables the court to draw a proper decree as required by Order 20 Rule 3 CPC. In case such property can be identified by boundaries or numbers in a record for settlement of survey, the plaint shall specify such boundaries or numbers.***"**

77. In real estate and civil litigation, a common defense strategy is to challenge the maintainability of a suit by arguing that the property description is too vague to be identified. This argument usually relies

[3](2007) 5 SCC 669
[4](2003) 2 SCC 330

on **Order VII Rule 3 of the Code of Civil Procedure (CPC), 1908**, which dictates that where a suit subject matter is immovable property, the plaint must contain a description sufficient to identify it, such as boundaries or numbers in a record of settlement.

78. When a defendant argues that a suit must fail because the schedule of the property (which mirrors the schedule in the plaintiff's title deed) lacks specific four-corner boundaries, the argument sounds strong on the surface. However, a deeper legal analysis reveals that **the absolute absence of boundaries in a deed or plaint schedule does not automatically render a property description vague or the suit unmaintainable.**

79. The fundamental flaw in arguing that a lack of boundaries equates to "vagueness" is the misinterpretation of Order VII Rule 3. The statutory mandate is **not** that a plaint *must* contain boundaries; the mandate is that the description must be **sufficient to identify the property**.

80. The law provides alternative, equally valid methods of certain identification. If a property can be unambiguously identified by other markers, the absence of boundaries is legally irrelevant.

81. When interpreting a property schedule that lacks boundaries but matches a valid title deed, courts rely on standard rules of construction under the **Transfer of Property Act, 1882** and the **Indian Evidence Act, 1872**.

82. In property law, there is a recognized hierarchy of reliability used to determine the true identity of a parcel of land when description elements conflict or are omitted:-

i. **Government Survey/Plot Numbers:** These are considered the most precise markers because they refer to a fixed, officially mapped coordinate within the state's land registry.

ii. **Boundaries:** These are highly persuasive but can shift over time (e.g., changing adjacent owners, shifting natural landmarks).

iii. **Extent/Area:** This is generally considered the least reliable marker and yields to both plot numbers and boundaries.

If a schedule lacks boundaries but provides a specific, unique **Survey Plot Number** (such as Cadastral Survey or Revisional Settlement numbers) alongside an exact area measurement (e.g., 1.40 acres), the description is legally complete. The plot number embeds the property within an official state-engineered map that explicitly defines its physical boundaries. Therefore, the boundaries are already legally present by proxy.

84. Resolving Latent Ambiguities under the Indian Evidence Act can be inferred to the following provisions:-

i. **Section 93 (Patent Ambiguity):** If a deed is so inherently unspecific that it cannot mean anything (e.g., selling "my land in Purulia" when the seller owns five different plots there), it is a patent ambiguity, and oral evidence cannot cure it.

ii. **Section 96 (Latent Ambiguity / Misdescription):** If the deed describes a property clearly by plot number and area, but the boundaries are omitted or a typo exists in the survey number, this is a latent ambiguity or a mere misdescription.

85. Under the provisos of **Section 92 and Section 96**, a party is fully entitled to introduce surrounding evidence—such as parent deeds, village map layouts, tax receipts, and oral testimony from local witnesses—to show exactly which physical patch of earth matches that plot number and area.

86. If the identity of the plot—including its historical mapping discrepancies—has already been litigated and decided by a competent civil court in a prior suit involving the same predecessors-in-title, that prior decree acts as an absolute clarification of the property's identity. The property can no longer be called "vague" because a court has already legally defined its parameters.

87. When a defendant claims they purchased the *exact same plot* via a later deed that *does* feature beautifully detailed boundaries, they argue their deed is superior due to its specificity. This argument fails under the doctrine of ***Nemo dat quod non habet*** (no one can give what they do not have), governed by **Section 48 of the Transfer of Property Act** (Priority of Rights):

    i. **The First in Time Rule:** Once a vendor executes a registered sale deed transferring a specific plot number and area to a plaintiff, the vendor is completely divested of ownership over that land.

    ii. **The Empty Inheritance:** If that vendor dies, their heirs inherit absolutely zero residual interest in that specific plot.

    iii. **The Void Subsequent Deed:** If an heir later purports to sell that same plot to a defendant, drawing a map with clear boundaries on the paper, that deed is a *brutum fulmen* (a harmless

thunderbolt/empty threat). It transfers nothing because the heir had nothing to transfer.

88. An articulated boundary on a fraudulent, void deed cannot defeat a valid, earlier registered title deed that relies cleanly on an official government plot number.

89. A lack of boundaries in a property schedule is fatal **only** if the remaining description elements are also deficient. For example, if a deed conveys *"an undemarcated 1 acre out of a massive 50-acre communal plot"* without specifying a subdivision layout, a plot number, or a mutation block, the description is genuinely vague and unexecutable.

90. However, if the schedule reflects a **distinct, individual fractional share or an entire standalone plot identifier** (e.g., 1.40 acres out of an officially recognized historical plot), the lack of boundaries is a superficial omission. The property remains perfectly identifiable through state revenue maps and local physical survey teams. For a court to dismiss such a suit on the ground of vagueness is an exercise in hyper-technical perversity that sacrifices substantive justice for administrative form.

83. The Hon'ble Supreme Court, in the case of ***HEMLATHA(D) BY LRS* vs. *TUKARAM(D) BY LRS AND OTHERS***[5], has made the following observations: -

> ***"31.*** *It is a settled position of law that a registered Sale Deed carries with it a formidable presumption of validity and genuineness. Registration is not a mere procedural formality but a solemn act that imparts high degree of sanctity to the document. Consequently, a Court*

[5]2026 SCC OnLIne SC 106

must not lightly or casually declare a registered instrument as a "sham". Adopting the principles enunciated in Prem Singh v. Birbal, (2006) 5 SCC 353[1], Jamila Begum (Dead) Through Lrs. v. Shami Mohd. (Dead) Through Lrs., (2019) 2 SCC 727[2], and Rattan Singh v. Nirmal Gill, (2021) 15 SCC 300[3], this Court reiterates that the burden of proof to displace this presumption rests heavily upon the challenger. Such a challenge can only be sustained if the party provides material particulars and cogent evidence to demonstrate that the Deed was never intended to operate as a bona fide transfer of title."

84. The Hon'ble Supreme Court, in the case of ***P. KISHORE KUMAR* vs. *VITTAL K. PATKAR***[6], has made the following observations: -

"22. *It is trite law that revenue records are not documents of title.*

23. *This Court in Sawarni v. Inder Kaur [Sawarni v. Inder Kaur, (1996) 6 SCC 223] held that mutation in revenue records neither creates nor extinguishes title, nor does it have any presumptive value on title. All it does is entitle the person in whose favour mutation is done to pay the land revenue in question.*

24. *This was further affirmed in Balwant Singh v. Daulat Singh [Balwant Singh v. Daulat Singh, (1997) 7 SCC 137] wherein this Court held that mere mutation of records would not divest the owners of a land of their right, title and interest in the land.*

25. *In Jitendra Singh v. State of M.P. [Jitendra Singh v. State of M.P., 2021 SCC OnLine SC 802] , this Court after considering a catena of judgments, reiterated the principle of law as follows: (SCC OnLine SC para 6)*

> *"6. … mutation entry does not confer any right, title or interest in favour of the person and the mutation entry in the revenue record is only for the fiscal purpose."*

[6](2024) 13 SCC 553

26. *We may also profitably refer to the decision of this Court in Sita Ram Bhau Patil v. Ramchandra Nago Patil [Sita Ram Bhau Patil v. Ramchandra Nago Patil, (1977) 2 SCC 49] wherein it was held that there exists no universal principle that whatever will appear in the record of rights will be presumed to be correct, when there exists evidence to the contrary."*

85. The Hon'ble Supreme Court, in the case of ***JITENDRA SINGH* vs. *STATE OF MADHYA PRADESH AND OTHERS***[7], has made the following observations: -

"7. *Right from 1997, the law is very clear. In the case of Balwant Singh v. Daulat Singh (D) By Lrs., reported in (1997) 7 SCC 137, this Court had an occasion to consider the effect of mutation and it is observed and held that mutation of property in revenue records neither creates nor extinguishes title to the property nor has it any presumptive value on title. Such entries are relevant only for the purpose of collecting land revenue. Similar view has been expressed in the series of decisions thereafter.*

8. *In the case of Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186, it is observed and held by this Court that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. Entries in the revenue records or jamabandi have only "fiscal purpose", i.e., payment of land revenue, and no ownership is conferred on the basis of such entries. It is further observed that so far as the title of the property is concerned, it can only be decided by a competent civil court. Similar view has been expressed in the cases of Suman Verma v. Union of India, (2004) 12 SCC 58; Faqruddin v. Tajuddin, (2008) 8 SCC 12; Rajinder Singh v. State of J&K, (2008) 9 SCC 368; Municipal Corporation, Aurangabad v. State of Maharashtra, (2015) 16 SCC 689; T. Ravi v. B. Chinna Narasimha, (2017) 7 SCC 342; Bhimabai Mahadeo*

[7] 2021 SCC OnLine SC 802

Kambekar v. Arthur Import & Export Co., (2019) 3 SCC 191; Prahlad Pradhan v. Sonu Kumhar, (2019) 10 SCC 259; and Ajit Kaur v. Darshan Singh, (2019) 13 SCC 70."

86. The Hon'ble Supreme Court, in the case of ***NARASAMMA AND OTHERS*** **vs.** ***STATE OF KARNATAKA AND OTHERS***[8], has made the following observations: -

".....

27. *It is true that the entries in the revenue record cannot create any title in respect of the land in dispute, but it certainly reflects as to who was in possession of the land in dispute on the date the name of that person had been entered in the revenue record."*

87. The Hon'ble High Court at Bombay, in the case of ***RITA PREMCHAND AND ANOTHER*** **vs.** ***STATE OF MAHARASHTRA AND OTHERS***[9], has made the following observations: -

".....

7. *The principle of law is well settled, that entries in the revenue records are not dispositive or conclusive on questions of title. The revenue records create no title and are relevant only for fiscal purposes."*

88. The Hon'ble High Court at Bombay, in the case of ***NIVRUTTI S/O KUSHABA BINNAR*****vs. *SAKHUBAI W/O KERU JORVAR (SINCE DECEASED) BY HER L.RS. PANDU KERU JORVAR AND OTHERS***[10], has made the following observations: -

"29....The Apex Court in *Balwant Singh* v. *Daulat Singh (dead) by L.Rs.*, (1997) 7 SCC 137 : AIR 1997 SC 2719, held that mere

[8](2009) 5 SCC 591
[9](2001 SCC OnLine Bom 477
[10]2009 SCC OnLine Bom 19

mutation entries could not be construed as conveying title in favour of the person claiming to be the owner. It is observed:

> *"....Be that as it may, we have already noticed that mutation entries do not convey or extinguish any title and those entries are relevant only for the purpose of collection of land revenue. ....."*
>
> *There is a catena of case-law in this behalf. In State of Himachal Pradesh v. Keshav Ram, (1996) 11 SCC 257 : AIR 1997 SC 2181, the Apex Court held that entries in the revenue record cannot form basis for declaration of title."*

89. The Hon'ble High Court at Calcutta, in the case of ***LAKSHMI JAISWAL*** **vs.** ***SANJAY JAISWAL & ORS***[11]., has made the following observation: -

> ***".....***
>
> ***26.*** *It may be true as has been held by a Division Bench of this court in Indira Devi (supra) that a record of right is not a document of title. But it is also well settled that entries in a record of right carry with it a presumption. Such entries having been made in the record of rights as far back as in the year 1930, the presumption becomes stronger."*

90. The Hon'ble High Court at Calcutta, in the case of ***KASHINATH MONDAL & ORS.*** **vs.** ***STATE OF WEST BENGAL & ORS***[12]., has made the following observations: -

> ***"15.*** *It is settled position of law that record-of-rights does not create nor extinguish title. It really reflects the title and this has got a presumptive value. The decision relating to status and/or right of a particular person is something else from the record-of-rights. After the decision of right or status is rendered, the same is reflected in the record-of-rights..."*

[11] 2000 SCC OnLine Cal 312
[12] 2007 SCC OnLine Cal 739

91. The Hon'ble High Court at Calcutta, in the case of ***SEIKH SAHIDUL* vs. *SAJAHAN SHEIKH & ORS***[13]., has made the following observations: -

> **"27. .....**It is needless to say that the R.O.Rs indicates possession and not that of title. It is true that continuous possession of a person in respect of a particular property may lead to acquisition of title and such a person may claim adverse possession against the whole of the world including the real owner.
>
> ***28.*** *.....* ***It is true on principles that finally published record of rights should be presumed to be correct*** *but simply relying on that the appellants or the proforma respondents cannot acquire any title over the suit property."*

92. The Hon'ble Supreme Court, in the case of ***STATE OF H.P.* vs. *KESHAV RAM AND OTHERS***[14], has made the following observations: -

> ***"5.*** *In view of the rival contentions, the question that arises for consideration is whether the plaintiffs have been able to establish their title and the courts below were justified in declaring plaintiffs' title. As has been stated earlier the only piece of evidence on which the courts below relied upon to decree the plaintiffs' suit is the alleged order made by the Assistant Settlement Officer directing correction of the record of right. The order in question is not there on record but the plaintiffs relied upon the register where the correction appears to have been given effect to. The question, therefore, arises as to whether the entry in the settlement papers recording somebody's name could create or extinguish title in favour of the person concerned? It is to be seen that the disputed land originally stood recorded in the name of Raja Sahib of Keonthal and thereafter the State was recorded to be the owner of the land in the record of right prepared in the year 1949-50. In the absence of the very order of the Assistant Settlement Officer directing necessary correction to be made in favour of the plaintiffs, it*

[13] 2016 SCC OnLine Cal 4441
[14] (1996) 11 SCC 257

*is not possible to visualize on what basis the aforesaid direction had been made. But at any rate such an entry in the Revenue papers by no stretch of imagination can form the basis for declaration of title in favour of the plaintiffs. To our query as to whether there is any other document on the basis of which the plaintiffs can claim title over the disputed land, the learned counsel for the plaintiffs-respondents could not point out any other document apart from the alleged correction made in the register pursuant to the order of the Assistant Settlement Officer. In our considered opinion, the courts below committed serious error of law in declaring plaintiffs' title on the basis of the aforesaid order of correction and the consequential entry in the Revenue papers. In the circumstances, the appeal is allowed and the judgment and decree passed in all the three forums are set aside. The plaintiffs' suit stands dismissed. There will be no order as to costs.***"***

94. The Hon'ble Supreme Court, in the case of ***SAWARNI(SMT)*** **vs.** ***INDER KAUR (SMT) AND OTHERS***[15], has made the following observations: -

"7. *..... At the outset, it may be noticed that the plaintiff had filed the suit claiming half interest for herself and claiming half interest in favour of the husband and sons of Roori and, therefore, the learned Additional District Judge was wholly in error to hold that the plaintiff could not have filed the suit in question. In view of the rival stand of the parties the main question that arose for consideration was whether Roori was the daughter of Gurbax Singh or Inder Kaur, Defendant 5 was the daughter of the same Gurbax Singh? The learned trial Judge after elaborate discussion of the evidence on record both oral and documentary came to the positive conclusion that it was Roori who was the daughter of Gurbax Singh as alleged by the plaintiff and not Inder Kaur. The lower appellate court without focusing its attention on the weighty reasons advanced by the trial court and without examining the materials on record in that respect even did not set aside the said finding of the trial Judge and yet reversed the decree of*

[15](1996) 6 SCC 223

the trial Judge. We have no hesitation to come to the conclusion that the said judgment of the Additional District Judge is wholly unsustainable in law. The crucial point being as to who was the second daughter of Gurbax Singh, namely Roori or Inder Kaur, and the trial Judge having come to the positive conclusion that it was Roori who was the second daughter of Gurbax Singh, the lower appellate court was not justified in not considering the material evidence as well as the reasons advanced by the trial Judge and merely coming to the conclusion that the evidence on the file does not prove Roori to be the daughter of Gurbax Singh. Further, the lower appellate court has not come to any positive finding that Inder Kaur was the daughter of Gurbax Singh. He has been swayed away by the so-called mutation in the revenue record in favour of Inder Kaur. Mutation of a property in the revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. The learned Additional District Judge was wholly in error in coming to a conclusion that mutation in favour of Inder Kaur conveys title in her favour. This erroneous conclusion has vitiated the entire judgment. That apart, as it would be seen, the learned trial Judge had considered the oral evidence adduced on behalf of the parties to establish the respective stand as to who was the second daughter of Gurbax Singh and on perusal of the same came to the conclusion that it was Roori who was the second daughter of Gurbax Singh. The Additional District Judge has not even discussed anything about the said oral evidence and the reasonings advanced by the learned trial Judge in coming to the conclusion that it was Roori who was the second daughter of Gurbax Singh. Non-consideration of the oral evidence adduced by the parties, by the lower appellate court vitiates the ultimate conclusion on the question whether Roori was the daughter of Gurbax Singh or not. It is further seen that Gurdip Kaur, widow of Gurbax Singh had executed a Will in respect of the entire estate in favour of the plaintiff and Roori and after the death of Gurdip Kaur a succession certificate had been issued by the civil court under the Indian Succession Act, 1925 in

*favour of the plaintiff and the said Roori. The said succession certificate and rights flowing therefrom cannot be ignored. Admittedly no attempt has been made by Defendants 1 to 4 to annul the succession certificate on the grounds available under the Succession Act. The Additional District Judge committed serious error of law in not considering the said Will and the succession certificate in question which unequivocally clinches the matter and thereby the ultimate judgment of the Additional District Judge is vitiated. The High Court also was in error in not examining these questions and dismissing the second appeal in limine.***"**

95. By ignoring this vital admission and the finalized L.R. Record of Rights (Exhibit 4A), which officially registered the plaintiff's name under L.R. Plot No.3057 to the exact extent of his 1.40 acres, the First Appellate Court delivered a finding that is visibly perverse, irrational, and unsustainable. Question No. 1 is, therefore, answered in the **affirmative**.

93. The second substantial question of law examines whether the First Appellate Court was justified in refusing to grant a decree for protection or recovery of possession simply because the plaintiff sought "confirmation of possession" but was found to be physically out of actual control on the ground on the date of the suit.

94. In dismissing the suit, the First Appellate Court chose to re-characterize the plaintiff's substantive prayer for a permanent injunction as a mere *"interim temporary prayer till disposal of the suit."* It used this misreading to invoke the statutory bar under the proviso to **Section 34 of the Specific Relief Act, 1963**, citing *C. Mohammed Yunus v. Syed Unissa (AIR 1961 SC 808)*, and concluded that the plaintiff had failed to seek mandatory consequential relief.

95. This reasoning represents a severe distortion of the pleadings and a misapplication of substantive law. The plaintiff did not file a bare, standalone suit for a declaration. The plaint explicitly included a substantive prayer for a permanent injunction to restrain the principal defendants from entering upon or interfering with his peaceable enjoyment. A prayer for a permanent injunction is an explicitly recognized form of consequential "further relief" under Section 34. By seeking this injunction, the plaintiff completely satisfied the statutory safeguard of Section 34, ensuring that the litigation was not split into multiple, vexatious proceedings.

96. The Hon'ble Supreme Court, in the case of ***ANNAMALAI* vs. *VASANTHI AND OTHERS***[16], has made the following observations: -

> ***"35.*** *A declaratory relief seeks to clear what is doubtful, and which is necessary to make it clear. If there is a doubt on the right of a plaintiff, and without the doubt being cleared no further relief can be granted, a declaratory relief becomes essential because without such a declaration the consequential relief may not be available to the plaintiff [See : Anathula Sudhakar v. P. Buchi Reddy, (2008) 4 SCC 594] .*
>
> ***37.*** *Rationale of the aforesaid principle is that a void instrument/transaction can be ignored by a court while granting the main relief based on a subsisting right. But, where the plaintiff's right falls under a cloud, then a declaration affirming the right of the plaintiff may be necessary for grant of a consequential relief. However, whether such a declaration is required for the consequential relief sought is to be assessed on a case-to-case basis, dependent on its facts.*
>
> ***44.*** *In our view, a declaratory relief would be required where a doubt or a cloud is there on the right of the plaintiff and grant of relief to the plaintiff is dependent on removal of that doubt or cloud. However, whether there is a doubt or cloud on the right of the*

[16](2026) 3 SCC 769

*plaintiff to seek consequential relief, the same is to be determined on the facts of each case.**"***

97. The Hon'ble Supreme Court, in the case of ***AKKAMMA AND OTHERS* vs. *VEMAVATHI AND OTHERS***[17], has made the following observations: -

> ***"18.*** *Our attention has also been drawn to certain portions of M. Krishnaswamy's Law of Adverse Possession (12th Edn.). In this commentary, the author has summarised the legal position in relation to presumption of law in relation to vacant lands in the following manner:*
>
> *"Possession is not necessarily the same as actual user. To prove possession, it is not necessary, generally, to prove user of land. If the land is of such a nature as to render it unfit for actual enjoyment in the usual modes, it may be presumed that the possession of the owner continues until the contrary is proved.*
>
> *The jurisprudential concept of possession is made up of two ingredients : (i) the corpus; and (ii) the animus. Corpus means actual exclusive physical control over the property denoting physical possession. The animus denotes the intention and exercise of right to possess the property as owner to the exclusion of others. These two ingredients put together go to constitute legal possession.**"***
>
> ***20.*** *…. The plaintiffs sought to introduce prayer for recovery of possession to cure the defect of not having made out a case on that count by way of amendment of plaint at the appellate stage. The High Court rejected this prayer. We have quoted earlier in this judgment the reason for such rejection. We are in agreement with the High Court on this point. While in a situation of this nature, amendment of plaint could be asked for (Vinay Krishna v. Keshav Chandra [Vinay Krishna v. Keshav Chandra, 1993 Supp (3) SCC 129]), such a plea ought to have been made within the prescribed limitation period. This position of law has been clarified in Venkataraja v. VidyaneDoureradjaperumal [Venkataraja v. Vidya neDoureradjaperumal, (2014) 14 SCC 502 : (2015) 1 SCC (Civ) 360] . In this case, it has been held : (Venkataraja case [Venkataraja v. VidyaneDoureradjaperumal, (2014) 14 SCC 502 : (2015) 1 SCC (Civ) 360] , SCC p. 510, para 24)*
>
> *"24. A mere declaratory decree remains non-executable in most cases generally. However, there is no prohibition upon a party*

[17](2021) 18 SCC 371

from seeking an amendment in the plaint to include the unsought relief, provided that it is saved by limitation. However, it is obligatory on the part of the defendants to raise the issue at the earliest. (Vide Prakash Chand Khurana v. Harnam Singh [Prakash Chand Khurana v. Harnam Singh, (1973) 2 SCC 484] and State of M.P. v. Mangilal Sharma [State of M.P. v. Mangilal Sharma, (1998) 2 SCC 510 : 1998 SCC (L&S) 599] .)"

21. *We agree with that part of the decision of the High Court in which it has been held that possession of the suit property was not established by the plaintiffs and hence injunctive relief could not be granted. As we have already recorded, we are also in agreement with the High Court's reasoning for rejecting the plea for amendment. But we do not agree fully with the entire reasoning of the High Court for dismissal of the appeal as spelt out in the said judgment. The bar contained in the proviso to Section 34 of the 1963 Act, in our opinion, could not be applied in the case of the plaintiffs as consequential relief for injunction from interference with the suit land was claimed. The prohibition contained in the proviso to Section 34 would operate only if the sole relief is for declaration without any consequential relief. In the plaint of the 1987 suit, relief for injunction was asked for. Such dual relief would protect the suit from being dismissed on maintainability ground. It is a fact that the plaintiff ought to have had asked for recovery of possession, given the factual background of this case, but the plaint as it was originally framed reflected that the original plaintiff was in possession of the suit land. Such plea rightly failed before the trial court and the first appellate court.*

22. *The prohibition or bar contained in the proviso to Section 34 of the 1963 Act determines the maintainability of a suit and that issue has to be tested on the basis the plaint is framed. If the plaint contains claims for declaratory relief as also consequential relief in the form of injunction that would insulate a suit from an attack on maintainability on the sole ground of bar mandated in the proviso to the aforesaid section. If on evidence the plaintiff fails on consequential relief, the suit may be dismissed on merit so far as plea for consequential relief is concerned but not on maintainability question invoking the proviso to Section 34 of the 1963 Act. If the plaintiff otherwise succeeds in getting the declaratory relief, such relief could be granted. On this count, we do not accept the ratio of the Karnataka High Court judgment in Aralappa [Aralappa v. Jagannath, 2006 SCC OnLine Kar 501 :*

ILR 2007 Kar 339] to be good law. In that decision, it has been held : (SCC OnLine Kar para 31)

> *"31. Even if the plaintiff comes to Court asserting that he is in possession and that if it is found after trial that he was not in possession on the date of the suit, even then, the suit for declaration and permanent injunction is liable to be dismissed as not maintainable, as no decree for permanent injunction can be granted if the plaintiff is not in possession on the date of the suit. In such circumstances, it is necessary for the plaintiff to amend the plaint before the judgment and seek relief of possession. Therefore, a suit for declaration of title and permanent injunction, by the plaintiff who is not in possession on the date of the suit, when he is able to seek further relief of recovery of possession also, omits to do so, the Court shall not make any such declaration and the suit is liable to be dismissed as not maintainable."*

98. The Hon'ble High Court at Karnataka, in the case of ***SRI ARALAPPA* vs. *SRI JAGANNATH AND OTHERS***[18], has made the following observations: -

> ***"28.*** *Section 34 of the Act reads as under:*
>
> > *"**34. Discretion of Court as to declaration of status or right**.— Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, as the plaintiff need not in such suit ask for any further relief:*
> >
> > *Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so."*
>
> ***29.*** *In the light of the aforesaid judgment and the statutory provisions referred supra, it is clear that, the object of the section is to perpetuate and strengthen testimony regarding title and protect it from adverse attacks and to prevent future litigation by removing existing cause of controversy. The policy of the legislature is not only to secure to a wronged party possession of the property taken away from him but also to see that he is allowed to enjoy that property peacefully. The proviso to the said Section shows the care that has been taken by the legislature to avoid multiplicity of suits and to*

[18] 2006 SCC OnLine Kar 501

prevent a person getting the declaration of right in one suit and immediately after the remedy already available in the other. This is clear from the proviso of the Section. The proviso lays down that no Court shall make such declaration where the plaintiff being able to seek further relief than mere declaration of title omits to do so. The object of this proviso is to avoid multiplicity of the suits. Where the plaintiff is entitled to some consequential relief, directly flowing from the right or title of which he seeks declaration in the suit, he must seek declaration in the first instance and a consequential relief in the same suit and not by two separate suits. This provision is mandatory and enjoins the Court not to pass a declaratory decree where the plaintiff omits to seek further relief to which he is entitled to, as a natural consequence of the declaration. That is where the judicial discretion counts. It would be a case of proper exercise of judicial discretion, to refuse to grant a declaration sought for, even if the plaintiff establishes his title but he is not in possession, on the date of the suit and do not seek the relief of possession.

30. *In a suit for declaration of ownership and permanent injunction, not only the plaintiff has to prove his title to the property, but also his possession over the property on the date of the suit. When the plaintiff is not in possession of the property on the date of the suit, relief of permanent injunction is not an appropriate consequential relief. The appropriate relief consequential to declaration of ownership would be recovery of possession of the property. When the plaintiff is out of possession of the property and does not seek relief for possession, a mere suit for declaration is not maintainable. The reason is not far to seek. It is well settled that no Court would grant any relief which is not useful, or futile and not effective. If title of the plaintiff is to be declared and he is not in possession and possession is with the defendant or some other person, the plaintiff would be having title of the property and the person in possession would be having possessory title tothe property. It would lead to anomalous situation and create confusion in the public, which is to be avoided.*

31. *Even if the plaintiff comes to Court asserting that he is in possession and that if it is found after trial that he was not in possession on the date of the suit, even then, the suit for declaration and permanent injunction is liable to be dismissed as not maintainable, as no decree for permanent injunction can be granted if the plaintiff is not in possession on the date of the suit. In such circumstances, it is necessary for the plaintiff to amend the plaint before the judgment and seek relief of possession. Therefore, a suit*

*for declaration of title and permanent injunction, by the plaintiff who is not in possession on the date of the suit, when he is able to seek further relief of recovery of possession also, omits to do so, the Court shall not make any such declaration and the suit is liable to be dismissed as not maintainable.***"**

99. The Hon'ble Supreme Court, in the case of ***VASANTHA(DEAD) THROUGH LR VS. RAJALAKSHMI @ RAJAM (DEAD) THROUGH LRS***[19], has made the following observations: -

> ***49.*** *We now proceed to examine the law on this issue. As submitted by the learned Senior Counsel for the appellant, in Vinay Krishna v. Keshav Chandra [Vinay Krishna v. Keshav Chandra, 1993 Supp (3) SCC 129] (two-Judge Bench), this Court while considering Section 42 of the erstwhile Specific Relief Act, 1877 to be pari materia with Section 34 of SRA, 1963 observed that the plaintiff's not being in possession of the property in that case ought to have amended the plaint for the relief of recovery of possession in view of the bar included by the proviso.*
>
> ***50.*** *This position has been followed by this Court in Union of India v. Ibrahim Uddin (two-Judge Bench), elaborated the position of a suit filed without the consequential relief. It was observed : (SCC p. 173, paras 55-58)*
>
> > *"55. The section provides that courts have discretion as to declaration of status or right, however, it carves out an exception that a court shall not make any such declaration of status or right where the complainant, being able to seek further relief than a mere declaration of title, omits to do so.*
> >
> > *56. In Ram Saran v. Ganga Devi [Ram Saran v. Ganga Devi, (1973) 2 SCC 60] this Court had categorically held that the suit seeking for declaration of title of ownership but where possession is not sought, is hit by the proviso to Section 34 of the Specific Relief Act, 1963 and, thus, not maintainable. In Vinay Krishna v. Keshav Chandra [Vinay Krishna v. Keshav Chandra, 1993 Supp (3) SCC 129] this Court dealt with a similar issue where the plaintiff was not in exclusive possession of property and had filed a suit seeking declaration of title of ownership. Similar view has been reiterated observing that the suit was not maintainable, if barred by the proviso to Section 34 of the Specific Relief Act. (See also Gian Kaur v. Raghubir Singh [Gian*

[19](2024) 5 SCC 282

Kaur v. Raghubir Singh, (2011) 4 SCC 567 : (2011) 2 SCC (Civ) 366] .)

57. In view of the above, the law becomes crystal clear that it is not permissible to claim the relief of declaration without seeking consequential relief.

58. In the instant case, the suit for declaration of title of ownership had been filed, though Respondent 1-plaintiff was admittedly not in possession of the suit property. Thus, the suit was barred by the provisions of Section 34 of the Specific Relief Act and, therefore, ought to have been dismissed solely on this ground. The High Court though framed a substantial question on this point but for unknown reasons did not consider it proper to decide the same."

51. *In Venkataraja v. VidyaneDoureradjaperumal [Venkataraja v. Vi dyaneDoureradjaperumal, (2014) 14 SCC 502 : (2015) 1 SCC (Civ) 360] (two-Judge Bench), the purpose behind Section 34 was elucidated by this Court. It was observed that the purpose behind the inclusion of the proviso is to prevent multiplicity of proceedings. It was further expounded that a mere declaratory decree remains non-executable in most cases. This Court noted that the suit was never amended, even at a later stage to seek the consequential relief and therefore, it was held to be not maintainable. This position of law has been reiterated recently in Akkamma v. Vemavathi [Akkamma v. Vemavathi, (2021) 18 SCC 371] (two-Judge Bench).*

52. *This Court in ArulmiguChokkanatha Swamy Koil Trust v. Chandran [ArulmiguChokkanatha Swamy Koil Trust v. Chandran, (2017) 3 SCC 702 : (2017) 2 SCC (Civ) 334] (two-Judge Bench), while reversing the High Court decree, observed that because of Section 34 of the SRA, 1963, the plaintiff not being in possession and claiming only declaratory relief, ought to have claimed the relief of recovery of possession. It was held that the trial court rightly dismissed the suit on the basis that the plaintiff has filed a suit for a mere declaration without relief for recovery, which is clearly not maintainable.*

53. *That apart, it is now well settled that the lapse of limitation bars only the remedy but does not extinguish the title. Reference may be made to Section 27 of the Limitation Act. This aspect was overlooked entirely by the High Court in reversing the findings of the courts below. It was not justified for it to have overlooked the aspect of*

limitation, particularly when deciding a dispute purely civil in nature.

100. The Hon'ble Supreme Court, in the case of ***ANATHULA SUDHAKAR* vs. *P BUCHI REDDY***[20], has made the following observations: -

> ***"13.*** *The general principles as to when a mere suit for permanent injunction will lie, and when it is necessary to file a suit for declaration and/or possession with injunction as a consequential relief, are well settled. We may refer to them briefly.*
>
> ***13.1.*** *Where a plaintiff is in lawful or peaceful possession of a property and such possession is interfered or threatened by the defendant, a suit for an injunction simpliciter will lie. A person has a right to protect his possession against any person who does not prove a better title by seeking a prohibitory injunction. But a person in wrongful possession is not entitled to an injunction against the rightful owner.*
>
> ***13.2.*** *Where the title of the plaintiff is not disputed, but he is not in possession, his remedy is to file a suit for possession and seek in addition, if necessary, an injunction. A person out of possession, cannot seek the relief of injunction simpliciter, without claiming the relief of possession.*
>
> ***13.3.*** *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 the defendant, the plaintiff will have to sue for declaration of title and the consequential relief of injunction. Where the title of the 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.*
>
> ***19.*** *This Court in Sajjadanashin Sayed Md. B.E. Edr. v. Musa Dadabhai Ummer [(2000) 3 SCC 350] (at SCC pp. 362-63, para 24) noticed the apparent conflict in the views expressed in Vanagiri [Vanagiri Sri SelliammanAyyanarUthirasomasundareswarar Temple v. Rajanga Asari, AIR 1965 Mad 355] and Sulochana Amma [AIR 1965 Mad 355] and clarified that the two decisions did not express different views, but dealt with two different situations, as explained in Corpus Juris Secundum (Vol. 50, para 735, p. 229):*

[20](2008) 4 SCC 594

"Where title to property is the basis of the right of possession, a decision on the question of possession is res judicata on the question of title to the extent that adjudication of title was essential to the judgment; but where the question of the right to possession was the only issue actually or necessarily involved, the judgment is not conclusive on the question of ownership or title."

20. *In Vanagiri [From the Final Judgment and Order dated 18-1-1999 of the High Court of Judicature of Andhra Pradesh at Hyderabad in SA No. 29 of 1992] the finding on possession did not rest on a finding on title and there was no issue regarding title. The case related to an agricultural land and raising of crops and it was obviously possible to establish by evidence who was actually using and cultivating the land and it was not necessary to examine the title to find out who had deemed possession. If a finding on title was not necessary for deciding the question of possession and grant of injunction, or where there was no issue regarding title, any decision on title given incidentally and collaterally will not, operate as res judicata. On the other hand, the observation in Sulochana Amma [AIR 1965 Mad 355] that the finding on an issue relating to title in an earlier suit for injunction may operate as res judicata, was with reference to a situation where the question of title was directly and substantially in issue in a suit for injunction, that is, where a finding as to title was necessary for grant of an injunction and a specific issue in regard to title had been raised. It is needless to point out that a second suit would be barred, only when the facts relating to title are pleaded, when an issue is raised in regard to title, and parties lead evidence on the issue of title and the court, instead of relegating the parties to an action for declaration of title, decides upon the issue of title and that decision attains finality. This happens only in rare cases. Be that as it may. We are concerned in this case, not with a question relating to res judicata, but a question whether a finding regarding title could be recorded in a suit for injunction simpliciter, in the absence of pleadings and issue relating to title.*

21. *To summarise, the position in regard to suits for prohibitory injunction relating to immovable property, is as under:*

(a) Where a cloud is raised over the 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 the 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 [Annaimuthu Thevar v. Alagammal, (2005) 6 SCC 202]). 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 issue relating to title on which parties lead evidence, if the matter involved is simple and straightforward, 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. But persons having clear title and possession suing for injunction, should not be driven to the costlier and more cumbersome remedy of a suit for declaration, merely because some meddler vexatiously or wrongfully makes a claim or tries to encroach upon his property. The court should use its discretion carefully to identify cases where it will enquire into title and cases where it will refer to the plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case.***"**

101. The property in question is naturally classified as *danga* (arid upland) land. It is a long-standing rule of Indian property jurisprudence that for

vacant, uncultivated, or danga land, continuous, minute-by-minute physical occupation is an impossibility. Therefore, possession follows title.

102. Once the plaintiff established an unassailable root of title through his 1983 registered sale deed, backed by the 1982 civil decree, the legal presumption immediately arose that the plaintiff was in continuous constructive possession. A prayer for "confirmation of possession" is not a bare statement of fact; it is a request for the court to judicially recognize and protect this existing legal right to possess against threatened or recent disturbances.

103. Even if the First Appellate Court genuinely believed that the principal defendants had managed to establish actual physical presence on the soil prior to or during the pendency of the litigation, its legal course of action was governed by the principles of equity and Order VII Rule 7 of the CPC.

104. A Civil Court's primary duty is to ensure that substantive rights defeat pleading technicalities. If a title is proved but the court finds that an injunction alone cannot restore the plaintiff's peaceful enjoyment due to an active trespass, the court has a judicial duty to mould the relief and grant a decree for the recovery of possession.

105. The lower appellate court used its own misconstruction of the injunction prayer as a dead-end to frustrate the suit. In doing so, it failed to realize that a prayer for "confirmation of possession and permanent injunction" acts as an open gate for the court to grant recovery of possession if the underlying title is established. Forcing a lawful purchaser to file a brand-new suit for recovery against a clear trespasser violates the core judicial policy against multiplying lawsuits.

106. The principal defendants' possessory claims are completely empty under the foundational doctrine of ***nemo dat quod non habet***—no one can transfer a better title than they themselves possess—governed by Section 48 of the Transfer of Property Act, 1882 (Priority of Rights): When Tinkari Chakraborty executed the registered sale deed in 1983 (Exhibit 1) and transferred his entire 1.40-acre individual entitlement to the plaintiff, his right, title, and interest in that property were permanently and completely extinguished. Crucially, **Defendant No. 1 signed as an active attesting witness to this 1983 deed**. By acting as an attesting witness to the wholesale transfer of the land to the plaintiff, Defendant No. 1 is completely barred by the doctrine of equitable estoppel and acquiescence (**Section 115 of the Indian Evidence Act**) from later claiming ignorance or asserting a competing title. Because Tinkari Chakraborty held absolutely zero residual interest in the suit property at the time of his death, his daughter, Parul Chakraborty (Defendant No. 6), inherited absolutely nothing in respect of this land. Consequently, her subsequent 2012 sale deed (Exhibit A) executed in favor of the principal defendants is a legal nullity—a mere paper transaction completely incapable of conveying a valid root of title.

107. The principal defendants are not *bona fide* purchasers for value; they are speculative disputants relying on a void instrument, and their physical presence on the land is that of mere trespassers. To deny a valid title-holder a decree for recovery of possession against a blatant trespasser running on a void deed, simply because the plaintiff used the word

"confirmation" instead of "recovery" in his prayer, is a severe miscarriage of justice. Question No. 2 is answered in the **negative**.

108. The specific observation of the First Appellate Court—that because the plaintiff supposedly claimed a "temporary injunction" and not a permanent one, a permanent injunction cannot be granted and Section 34 of the Specific Relief Act applies—is a classic example of an error of law on the face of the record. This Court cannot let such an impermissible interpretation stand uncorrected.

109. A meticulous reading of the prayer clause in the plaint reveals that the plaintiff explicitly prayed for a decree of permanent injunction to protect his ownership block under L.R. Plot No. 3057. The lower appellate court, however, performed semantic surgery on the text, concluding that because the phrasing mentioned restraining the defendants from acts of disturbance, it must be downplayed as a mere interim temporary prayer "till the disposal of the suit."

110. This interpretation demonstrates an absolute failure to distinguish between a temporary injunction under Order XXXIX of the Civil Procedure Code and a permanent, perpetual injunction under Section 38 of the Specific Relief Act, 1963. A temporary injunction is an interlocutory mechanism designed to preserve the *status quo pendente lite*. A permanent injunction is a final decree, an absolute shield forged after complete adjudication on the merits, which restrains a party from invading a right for eternity.

111. By actively praying for a perpetual restraint against the trespassers, the plaintiff fully claimed the necessary consequential "further relief." The

statutory bar under Section 34 is completely bypassed the moment a substantive, perpetual remedy is appended to a declaration of title. The lower appellate court's deliberate manipulation of the nature of the prayer to force a statutory non-suit is an exercise in judicial overreach that cannot be sustained under close scrutiny.

112. Regarding the respondents' secondary technical defenses, this Court finds them entirely devoid of merit. The State of West Bengal was impleaded merely as a proforma defendant, and no substantial relief or decree was claimed against the state sovereign. It is a settled rule that the absence of a notice under Section 80(1) of the CPC does not vitiate a suit against private individuals where the state is merely a formal party to the record and no relief is sought against it.

113. Furthermore, the non-impleadment of other recorded tenants under the Land Reforms Act does not constitute a fatal defect of parties, as the plaintiff's claim was restricted exclusively to the independent 1.40-acre share transferred by Tinkari Chakraborty, which had already been judicially and amicably severed from the parent holding.

114. The First Appellate Court committed a profound error in law by preferring an unauthenticated, crudely hand-altered plot information sheet (Exhibit B, where "LR Dag No. 3057" was written in red ink without any official attestation) over registered conveyances, a binding 1982 civil decree, and finalized Land Reforms records. Mere administrative errors or typographical survey issues within revenue records cannot be elevated to a legal precinct to defeat a pristine, registered title deed.

115. Consequent upon the elaborate analysis and legal reasoning articulated above, the findings of the First Appellate Court are held to be unsustainable in the eyes of the law. The judgment of the Trial Court was solid, well-grounded in evidence, and required no interference.

116. In view of the above discussions, the Second Appeal being SA 193 of 2016 is allowed on contest against respondent no.1 and proforma respondent nos.3 to 7 and *ex parte* against respondent no.2.

117. The reversing judgment and order dated February 26, 2015 passed by the Learned Additional District Judge, 1st Court Purulia in Title Appeal No.58 of 2014 is set aside.

118. The judgment and decree dated September 26, 2013 passed by the Learned Civil Judge (Senior Division), Purulia in Title Suit No.76 of 2012 is restored in its entirety.

119. The plaintiff/appellant is declared as the absolute, lawful owner of the suit property delineated in Schedule-II of the plaint encompassing 1.40 acres of land derived from parent C.S. Plot No.2816 and finalized under L.R. Plot No.3057.

120. A decree for confirmation and recovery of vacant, peaceful physical possession of the suit property is granted in favour of the plaintiff/appellant under the mandate of Order VII Rule 7 of the Civil Procedure Code. The principal defendants are directed to vacate the land immediately if they have been in unlawful possession.

121. The registered deed of sale bearing no.90 of 2012 executed by defendant no.6 in favour of the principal defendants is declared fraudent, *void ab initio* and entirely not binding upon the plaintiff's title.

122. The respondents shall bear the cost of Rs.2,000/- as decreed by the Trial Court. Let the decree be drawn up accordingly.

123. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)