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HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

Reserved on : 23.07.2026
Delivered on : 23.09.2026
HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW
SECOND APPEAL No. - 110 of 2026
Ashish Gupta

◆..Appellant(s)

Versus

Smt. Pushpa Gupta

◆..Respondent(s)

Counsel for Appellant(s)

:

Apoorva Tewari, Pankaj Shukla

Counsel for Respondent(s)

:

Shraddha Agarwal, Anurag Narain Srivastava, Piyush Shrivastava, Shobhit Mohan Shukla, Suchita Singh

Along with :

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Court No. - 20

HON'BLE PRASHANT KUMAR, J.

1. Heard learned counsel for the parties and perused the record.
2. The instant second appeals have been preferred against the judgment and order dated 23.01.2026 passed by the Additional District and Sessions Judge, Lucknow in Civil Appeal Nos.212 of 2023 & 213 of 2023 and judgement and decree dated 17.11.2023 passed by the Civil Judge (Senior Division)/Fast Track Court, Lucknow in Civil Suit No.184 of 2008 and grant permanent injunction to the appellant against the respondent.
3. Since both the appeals arise out of the same judgment and order, the same are being decided by this common judgment.
4. Brief facts of the case are that the appellant herein instituted a suit for injunction, claiming himself to be the sole owner, user, and occupant of House No.K-1/1478, Ashiyana Colony, Kanpur Road Scheme, Lucknow (hereinafter referred to as the suit property). He further claimed that the suit property belonged to his maternal uncle, namely, Dr. Jagdamba Prasad Gupta, who died issueless and hence the being Class-II legal heir, he become the owner of the suit property.
5. The appellant claims that he was residing in and was in possession and occupation of the suit property. The respondent herein attempted to interfere with his peaceful possession thereof, compelling him to institute a suit for permanent injunction, seeking to restrain the respondent from interfering with his peaceful possession and from dispossessing him from the suit property. The respondent herein filed her written statement, wherein she categorically stated that she had married Dr. Jagdamba Prasad Gupta after the death of his first wife, Smt. Sharda Gupta, on 09.11.1985. She submitted that Dr. Jagdamba Prasad Gupta had initially married Smt. Sharda Gupta, who died in the year 1985. Out of the said wedlock, a daughter, namely, Kumari Nidhi Gupta, was born, who also died during the lifetime of Dr. Jagdamba Prasad Gupta on 23.08.2006.
6. Thereafter, the respondent, Smt. Pushpa Gupta, married Dr. Jagdamba Prasad Gupta and became his wife and successor in respect of the suit property. After their marriage, the respondent and Dr. Jagdamba Prasad Gupta lived together as husband and wife and had cordial relations. Out of the said wedlock, a son, namely, Divyesh Gupta @ Prince @ Pinshu, was born in the year 1987; however, unfortunately, he also died on 01.04.1998. It was further stated by the respondent that on 04.03.1995, the suit property was jointly purchased by Dr. Jagdamba Prasad Gupta and Smt. Pushpa Gupta, and a lease deed in respect thereof was executed by the Lucknow Development Authority on 04.03.1995. Thereafter, a house was constructed over the suit property, and both Dr. Jagdamba Prasad Gupta and Smt. Pushpa Gupta started residing therein. After the death of Dr. Jagdamba Prasad Gupta, the respondent, Smt. Pushpa Gupta, performed his last rites.
7. Thereafter, being the sole legal heir and successor, the respondent applied for mutation of the suit property in her name, and the mutation was duly carried out on 20.03.2008. Subsequently, the Lucknow Development Authority also executed a freehold deed in favour of Smt. Pushpa Gupta on 10.02.2022. The name of Smt. Pushpa Gupta was also recorded in the records of the Nagar Nigam, and the property was assessed in her name. The respondent further stated that the appellant herein approached her husband, Dr. Jagdamba Prasad Gupta, seeking permission to stay in a portion of the house for some time. He was accordingly permitted to occupy one room as a licensee on a temporary basis. However, after some time, when the respondent returned, she found that the suit property had been locked and that she was being prevented from entering the same. Thereafter, the appellant refused to vacate the premises and instituted a suit for permanent injunction against the respondent.
8. A suit being Regular Suit No.184 of 2008 was filed before the Civil Judge Malihabad (S.D.), Lucknow with the following prayers:
 - ◆(a) That a DECREE for permanent injunction be passed in favour of the plaintiff against the defendant restraining him with her men, husband, agent, servant and family members including anybody else claiming under them from interfering in peaceful possession of the plaintiff and not to disposes the plaintiff from the house in suit forcibly/illegally morefully described and detailed in para-1 of the plaint in any manner whatsoever.
 - b) Cost of the suit be awarded in favour of the plaintiff and against the defendant.
 - c) Any other relief(s) deemed Just and proper in the circumstances of the case by this Hon'ble Court be also passed in favour of the plaintiff and against the defendant to meet the ends of Justice.◆
9. The respondent herein filed a written statement in the aforesaid suit and also made a counter-claim with the following prayers:
 - ◆(a) That decree of mandatory injunction be passed in favour of the defendant against the plaintiff directing the plaintiff not to resist the defendant from putting her locks and not to create obstacles in the entry and use of the defendant over the property House No. K1-1478 (K One-One Four Seven Eight) measuring 241.80 (Two hundred forty one point eight zero) sq.mtrs. situated in Aashiana, Kanpur Road Scheme, Lucknow.
 - (b) Any other relief which may be deemed fit and proper in the circumstances of the case may also be granted.
 - (c) The counter claim be decreed with cost.◆
10. The learned Trial Court, by order dated 18.12.2019, framed the following issues for determination:
 - ◆1. क्या वादी वाद ग्रस्त भवन के बाबत प्रतिवादी के विरुद्ध स्थायी व्यादेश का अनुतोष, वादपत्र में किये गये अभिवचनों के आधार पर, प्राप्त करने का अधिकारी है?
 2. क्या वाद का मूल्यांकन उचित है?
 3. क्या वाद में प्रदत्त न्याय शुल्क पर्याप्त है?
 4. क्या वादी किसी अन्य अनुतोष को प्राप्त करने का अधिकारी है?
 5. क्या प्रतिवादिनी काउन्टर क्लेम में किये गये अभिवचनों के आधार पर वादी के विरुद्ध आज्ञापक व्यादेश प्राप्त करने की अधिकारिणी है?
 6. क्या काउन्टर क्लेम का मूल्यांकन उचित है?
 7. क्या काउन्टर क्लेम में प्रदत्त न्याय शुल्क पर्याप्त है?
 8. क्या प्रतिवादिनी किसी अन्य अनुतोष को प्राप्त करने की अधिकारिणी है?◆

11. The trial court after exchange of pleadings, going through the evidence adduced by the parties and arguments advanced by learned counsel for the parties came to the conclusion that a lease deed was executed in 04.03.1995 and free hold deed was also executed and registered in favour of the respondent on 07.03.2022.

12. The trial court held that Since Dr. Jagdamba Prasad Gupta had retired as a government employee, the name of the respondent was recorded as the family pensioner, which clearly demonstrates that she was his legally wedded wife. Further, succession proceedings were initiated in respect of the estate of Dr. Jagdamba Prasad Gupta.

13. The trial court further held that the respondent, Smt. Pushpa Gupta, instituted Succession Suit No. 180 of 2007 against Ashish Gupta, while Ashish Gupta also instituted Succession Suit No. 87 of 2008. Both the succession suits were decided vide order dated 22.07.2023, whereby the succession suit filed by the respondent, Smt. Pushpa Gupta, was allowed, whereas the succession suit filed by the appellant, Ashish Gupta, was rejected. Consequently, a succession certificate in respect of the movable and immovable properties of the deceased was issued in favour of Smt. Pushpa Gupta. The aforesaid order passed in the succession proceedings has been challenged by the appellant by way of an appeal, which is presently pending; however, no interim order has been passed therein.

14. The trial court also found that during lifetime of Dr. Jagdamba Prasad Gupta, Smt. Pushpa Gupta had instituted a maintenance case before the Family Court, wherein Dr. Jagdamba Prasad Gupta initially contested the claim, but subsequently agreed to the same and a settlement was arrived at between the parties. In the order dated 22.07.2023 passed in the succession proceedings, the court observed that late Dr. Jagdamba Prasad Gupta, in Maintenance Case No.111 of 1999, had admitted that he had married Smt. Pushpa Gupta after the death of his first wife. He had further admitted that a son namely Prinshu @ Divesh Gupta, was born out of their wedlock. The said admissions supported the finding that Smt. Pushpa Gupta was his legally wedded wife. It was further observed that although Smt. Pushpa Gupta had earlier been married to Ram Bahadur Gupta, the said marriage had subsequently been dissolved for certain reasons.

15. The court further observed that the appellant had contended that Smt. Pushpa Gupta could not be treated as the legally wedded wife of Dr. Jagdamba Prasad Gupta, on the ground that, at the time of her marriage with Dr. Jagdamba Prasad Gupta, her first husband was still alive and no formal decree of divorce had been obtained by her from him. The trial court, however, held that the validity of the marriage between the deceased Dr. Jagdamba Prasad Gupta and the counterclaimant, Smt. Pushpa Gupta, could not be adjudicated or declared as legal, illegal, valid, or void in a suit simpliciter for permanent injunction. Further, the Succession Court allowed the succession suit filed by the respondent and declared her to be the successor of late Dr. Jagdamba Prasad Gupta. The Lucknow Development Authority had executed a lease deed in favour of Dr. Jagdamba Prasad Gupta and Smt. Pushpa Gupta, which was duly executed and registered in the year 1995. Subsequently, a freehold deed was also executed in favour of Smt. Pushpa Gupta on 07.03.2022. The suit property was the self-acquired property of Dr. Jagdamba Prasad Gupta and Smt. Pushpa Gupta. At the time of acquisition, Smt. Pushpa Gupta held a 50% share in the suit property, while the remaining 50% share was held by Dr. Jagdamba Prasad Gupta. Upon the death of Dr. Jagdamba Prasad Gupta, his 50% share devolved upon the respondent, Smt. Pushpa Gupta, on the basis of the succession proceedings, she having been declared his Class-I legal heir.

16. The court further held that a decree for permanent injunction could not be granted against the actual owner, particularly when the respondent had, by way of her counterclaim, sought a decree of mandatory injunction on the basis of her ownership rights over the suit property. Accordingly, the trial court allowed the counterclaim filed by the respondent and dismissed the suit for permanent injunction instituted by the appellant vide its judgment and order dated 17.11.2023.

17. Aggrieved by the said judgment and decree dated 17.11.2023, the appellant preferred a first appeal before the learned First Appellate Court. Upon hearing the parties and considering the material available on record, the learned First Appellate Court dismissed the appeal and affirmed the judgment and decree passed by the learned Trial Court vide judgment and order dated 23.01.2026. The operative portion of the judgment and decree passed by the learned First Appellate Court is reproduced hereinbelow:

❖उपरोक्त निष्कर्ष से स्पष्ट है कि वादी अपने अभिकथनों को सिद्ध करने में असफल रहा है। वादी न तो विवादित सम्पत्ति का स्वामी है न किरायेदार है न ही वैध कब्जेदार है।

Nair Service Society Ltd. v. K.C. Alexander and others, AIR 1968 Supreme Court 1165(Three Judges Bench) के बाद में माननीय सर्वोच्च न्यायालय द्वारा यह अवधारित किया गया कि Possession is good against all but the true owner.

प्रेमजी रतनसे बनाम यूनियन ऑफ इण्डिया, 1994 III ADSC(C) 514 (SC) के वाद में माननीय सर्वोच्च न्यायालय द्वारा यह अवधारित किया गया कि अवैध कब्जेदार को वास्तविक स्वामी के विरुद्ध स्थायी निषेधाज्ञा का अनुतोष नहीं प्रदान किया जा सकता है। इसी प्रकार बचन सिंह बनाम साधू सिंह AIR 2004 पंजाब एवं हरियाणा 65 के बाद में माननीय सर्वोच्च न्यायालय द्वारा अवधारित किया गया कि वास्तविक स्वामी के विरुद्ध स्थायी निषेधाज्ञा का आदेश नहीं पारित किया जा सकता। संगवा बनाम येमनाप्पा AIR 1980 कर्नाटक 220 के वाद में माननीय सर्वोच्च न्यायालय द्वारा अवधारित किया गया कि स्थायी व्यादेश प्रदान करने से पूर्व वैध कब्जा स्थापित होना चाहिए। उपरोक्त स्थापित विधि व्यवस्था के प्रकाश में वादीगण अवैध कब्जे के आधार पर स्थायी निषेधाज्ञा का अनुतोष प्राप्त करने के अधिकारी नहीं हैं। अतः विद्वान विचारण न्यायालय द्वारा किये गये परिशीलन व निष्कर्ष में किसी प्रकार के हस्तक्षेप की आवश्यकता नहीं है। विचारण न्यायालय ने पत्रावली पर उपलब्ध तथ्यों को विचार में लेते हुए आक्षेपित निर्णय पारित किया है, जिसे पारित करने में कोई त्रुटि कारित नहीं की गयी है, तदुसार अपीलार्थी द्वारा प्रस्तुत दोनों अपील निरस्त किये जाने योग्य हैं।❖

18. Aggrieved by the concurrent findings of fact and law recorded by both the Civil Court and the learned First Appellate Court, the appellant preferred the present second appeal before this Court under section 100 of CPC.
Submissions of the Appellant

19. Learned counsel for the appellant submitted that the appellant/plaintiff had instituted Civil Suit No.184 of 2008 before the Civil Court seeking a decree of permanent injunction restraining the defendants from forcibly dispossessing him from the property in dispute. It was submitted that, in the plaint, the appellant/plaintiff had pleaded that he was the nephew and sole

legal heir of Late Jagdamba Prasad Gupta and that he had initially entered into the suit property with the permission of Late Jagdamba Prasad Gupta. Learned counsel further submitted that Late Jagdamba Prasad Gupta died issue-less in the year 2007 and, after his death, the appellant/plaintiff became entitled to the suit property by succession. It was further submitted that Smt. Pushpa Gupta was not the legally wedded wife of Late Jagdamba Prasad Gupta, therefore, she had no right, title or interest in the suit property. Learned counsel further submitted that, despite the aforesaid position, the respondent/defendant had claimed rights over the suit property and had threatened to dispossess the appellant/plaintiff therefrom, which led to the institution of the suit for permanent injunction.

20. Learned counsel for the appellant further urged that the learned Trial Court, by its judgment and decree dated 17.11.2023, had erroneously dismissed the suit for permanent injunction and wrongly allowed the counter-claim preferred by the respondent, and that the learned First Appellate Court, by its judgment and decree dated 23.01.2026, had dismissed the appeal and affirmed the judgment and decree of the Trial Court. It was further urged that the learned Courts below fell into a serious error of law in mechanically relying upon the documents produced by the respondent, without examining their true legal effect and without adjudicating the specific legal objections raised by the appellant. It was contended that the findings recorded by the Courts below were therefore unsustainable in law, having been rendered without proper consideration of the relevant statutory provisions governing the rights claimed by the parties. Learned counsel further contended that the registered lease deed, succession certificate and subsequent freehold deed could not, by themselves, confer an indefeasible right, title or interest upon the respondent in the absence of a lawful determination of her alleged marital status. In support of his submissions, learned counsel placed reliance upon various judicial precedents and the applicable statutory provisions.

Submissions of the Respondent

21. Learned counsel for the respondent/defendant vehemently denied the assertions made on behalf of the appellant/plaintiff and submitted that the claim raised by the appellant was wholly misconceived and contrary to the material on record. Learned counsel further submitted that the respondent had acquired her rights in the suit property on the basis of the documents forming part of the record and that the Courts below had rightly appreciated the pleadings, evidence and applicable law while dismissing the suit and allowing the counter-claim. Learned counsel for the respondent further submitted that the disputed property, (namely Plot No. K-1/1478, admeasuring 241.80 square metres, situated at Aashiyana, Kanpur Road Yojana, Lucknow), was originally acquired from the Lucknow Development Authority by a registered lease deed dated 04.03.1995, jointly in the names of Late Jagdamba Prasad Gupta and his wife, Smt. Pushpa Gupta. It was further submitted that, after the demise of the first wife of Late Jagdamba Prasad Gupta on 19.11.1985, the Respondent married him on 16.07.1986 in accordance with Hindu rites and ceremonies, and a son, namely Prince Gupta, was born out of the said wedlock. The respondent further asserted that she continuously resided with Late Jagdamba Prasad Gupta as his legally wedded wife and jointly enjoyed the suit property with him during his lifetime. Learned counsel for the respondent further asserted that, during the lifetime of Late Jagdamba Prasad Gupta, neither her status as his wife nor her rights or interest in the suit property had ever been questioned or disputed. It was further submitted that even the present appellant had not raised any objection to her marital status or claimed any right adverse to her during the lifetime of Late Jagdamba Prasad Gupta. Learned counsel submitted that it was only after his death in 2007 that the appellant, for the first time, instituted the suit in 2008 and questioned the Respondent's marital status, with the object of defeating her rights and interest in the suit property.

22. Learned counsel for the respondent submitted that the respondent had jointly acquired the suit property with her husband, Late Jagdamba Prasad Gupta, under the registered lease deed, and that both were equal owners thereof. It was further submitted that, after the death of her husband, the Lucknow Development Authority converted the leasehold property into freehold and executed a registered Freehold Deed in favour of the respondent in the year 2022, thereby recognizing her ownership over the suit property. Learned counsel for the respondent further contended that the respondent's title had thus been duly recognized by the competent statutory authority and could not be defeated in a simpliciter suit for permanent injunction on the basis of the appellant's unsupported allegations challenging her marital status.

23. Learned counsel for the respondent further submitted that, shortly before the demise of Late Jagdamba Prasad Gupta, the appellant/plaintiff had approached Late Jagdamba Prasad Gupta and the respondent with a request to permit him to reside temporarily in one room of the suit house. Considering the relationship between the parties, Late Jagdamba Prasad Gupta permitted the appellant/plaintiff to occupy the said room merely as a permissive occupant/licensee, without creating or conferring any right, title or interest in his favour. Learned counsel further submitted that this fact had itself been admitted by the appellant/plaintiff in his pleadings, thereby demonstrating that his initial possession of the suit property was permissive in nature.

24. Learned counsel for the respondent specifically submitted that the appellant/plaintiff had entered into possession of the suit property purely as a permissive occupant/licensee under Late Jagdamba Prasad Gupta and that such permissive possession stood terminated upon revocation of the licence and, in any event, by the express termination thereof by the respondent, who claimed title over the suit property. It was further submitted that a permissive occupant/licensee cannot, merely by continuing in possession after termination of the licence or by raising an unfounded challenge to the licensor's title, acquire any right, title or interest in the property.

25. Learned counsel for the respondent further submitted that, after the demise of Late Jagdamba Prasad Gupta, the respondent instituted succession proceedings under Section 372 of the Indian Succession Act, 1925, being Case No. 180m of 2007, and that the appellant/plaintiff also instituted separate succession proceedings, being Case No.78 of 2008. It was submitted that the competent Civil Court, vide judgment and order dated 22.7.2023, allowed the succession proceedings instituted by the respondent and granted a succession certificate in her favour, wherein she was recognized as the wife of Late Jagdamba Prasad Gupta. Learned counsel for the respondent also submitted that the learned Trial Court had rightly dismissed the Appellant's suit for permanent injunction and allowed the Respondent's counter-claim, and that the learned First Appellate Court had committed no error in affirming the said judgment and decree. It was further submitted that the findings recorded by both the Courts below were based on proper appreciation of the pleadings and evidence on record and called for

no interference in the present second appeal. Learned counsel for the respondent also relied upon several judicial authorities in support of his submissions.

26. I have given my anxious consideration to the submissions advanced by learned counsel for the parties and have carefully perused the pleadings and material available on record. Vide order dated 01.04.2026, this Court admitted the second appeal on the following substantial questions of law:

- ❖(i) Whether the relief of mandatory injunction seeking permission to place her lock on the property in question as sought by way of counter claim could be granted in the absence of the relief of possession having been claimed by the respondent particularly in view of the admitted fact that the appellant was in possession and the respondent was not in possession?
- ii) Whether the alleged marriage of the respondent with Late Dr. Jagdamba Prasad Gupta would be a void marriage as per Section 5(1) read with Section 11 of the Hindu Marriage Act in view of the admitted fact that the same was solemnized during the subsistence of the first marriage of the respondent with Ram Bahadur Gupta?
- (iii) Whether a mandatory injunction allowing the respondent to put her lock on the property in question could have been granted in view of the specific admission made by the respondent that she is not in possession over the property in question and the appellant is in possession over the property in question?
- (iv) Whether both the learned courts below have relied on inadmissible documentary evidence and returned perverse findings based thereon as the documents produced during trial were not put to admission / denial in gross violation of Order VII Rule 14, Order VIII Rule 1A and Order XIII Rule 1 of Code of Civil Procedure, 1908 as well as Rules 40-43 and 50- 64 of General Civil Rules?
- (v) Whether the findings recorded by both the learned courts below recognizing the respondent as the legally wedded wife of Late Dr. Jagdamba Prasad Gupta by relying on the order passed by Civil Judge (Senior Division), Azamgarh in case No. 180 of 2007 in proceedings under Section 372 of the Indian Succession Act, 1925 are perverse in view of the contrary evidence of the respondent in her cross examination in view of the fact that proceedings under Section 372 of the Indian Succession Act are summary proceedings which are subject to evidence produced before regular civil courts?

27. Subsequently, in exercise of the powers conferred under Section 100(5) of the Code of Civil Procedure, 1908, and after hearing the appellant, this Court had additionally framed the following substantial questions of law:

❖VI. Whether the respondent herein owns the part of the suit property wherein as the allotment of the house was made by the builder on 30.01.1987, the lease deed was executed on 04.03.1995 and after the death of Jagdamba Prasad Gupta in 2007, a free hold deed was executed in favour of the respondent in 2022?

VII. Whether the suit for permanent injunction filed by the appellant was maintainable on the part of the property for which the respondent is the declared owner and without first seeking declaration of that property?

VIII. Whether an illegal occupier of the property can seek permanent injunction against the true owner, without having any legal title or right over the property, merely taking ground of factum of validity of marriage?❖

28. Before deciding the substantial questions of laws framed in the present second appeal, it would be appropriate to examine the ambit and scope of temporary injunction, permanent injunction, and mandatory injunction, along with the governing legal principles and the settled position of law laid down by the Hon'ble Supreme Court. The determination of the questions involved in the present appeal necessarily depends upon a proper understanding of the nature, scope, and limitations of such remedies.

29. Under Section 37(1) of the Specific Relief Act, 1963, a temporary injunction may be granted during the pendency of the suit and is regulated by the provisions of the Code of Civil Procedure, 1908. A perpetual (permanent) injunction under Section 37(2) is granted upon the merits of the suit by a decree, permanently restraining the defendant from committing an act that infringes the plaintiff's rights. A mandatory injunction under Section 39 may be granted, to prevent the breach of an obligation.

30. Grant of Injunctions- Governing Principles

i. Temporary (Interim) Injunctions ❖ Sections 94(c), 95 and Order XXXIX Rules 1❖5 of the Code of Civil Procedure, 1908 read with Section 37(1) of the Specific Relief Act.

ii. Perpetual (Permanent) Injunctions ❖ Sections 37(2) and 38 of the Specific Relief Act, 1963.

iii. Mandatory Injunctions ❖ Section 39 of the Specific Relief Act, 1963.

Meaning of Injunction

31. Generally, an injunction is a judicial remedy granted for the prevention of wrongs and the protection of rights, whereby a Court either restrains a person from doing a particular act or commands the performance of a particular act.

TEMPORARY INJUNCTIONS

32. A temporary injunction is an interim and discretionary relief granted by the Court to preserve the subject matter of the suit and maintain the status quo between the parties during the pendency of the proceedings. It is granted on a prima facie consideration of the case, balance of convenience, and the likelihood of irreparable injury, until the rights of the parties are finally adjudicated.

33. Section 94(c) read with Order XXXIX of the Code, 1908, deals with temporary, interim or interlocutory injunction and orders. Where in any suit, it is proved by affidavit or otherwise that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or that defendant threatens, or intends, to remove or dispose of his property with a view to defrauding his creditors, or that defendant threatens to dispossess plaintiff or otherwise cause injury to plaintiff in relation to any property in dispute in the suit, the Court may by order grant a temporary injunction to restrain such act, or make such order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of plaintiff, or otherwise causing injury to plaintiff on the subject of property in dispute in the suit as the Court thinks fit, until disposal of the suit or until further orders.

34. The object of the injunction is to preserve the status quo. In issuing a temporary injunction, the tests to be applied are:

- (i) Whether the plaintiff has a prima facie case;
- (ii) Whether the balance of convenience is in favour of the plaintiff; and

(iii) Whether the plaintiff would suffer an irreparable loss if his prayer for temporary injunction is disallowed.

35. It is well settled that, at the stage of deciding an application for temporary injunction, the Court is not required to undertake a detailed examination of the merits of the case. The Court is required to consider whether: (i) the plaintiff has established a prima facie case requiring adjudication at trial; (ii) the plaintiff requires protection against an injury which is irreparable in nature and cannot be adequately compensated in terms of damages before his legal right is finally determined; and (iii) the balance of convenience lies in favour of granting the injunction, inasmuch as the inconvenience likely to be caused by refusing the injunction would be greater than the inconvenience likely to result from granting it. This was considered by the Hon^{ble} Supreme Court in the matter of State of Orissa v. Madan Gopal Rungta, reported in 1952 (1) SCR 28. Wander Ltd. and another v. Antox India P. Ltd., 1990 Supp SCC 727; Gujarat Bottling Co. Ltd. v. Coca Cola Co., (1995) 5 SCC 545.

36. In Seema Arshad Zaheer & Ors. v. Municipal Corporation of Greater Mumbai & Ors., (2006) 5 SCC 282, the Supreme Court authoritatively laid down the principles governing the grant of temporary injunction under Order XXXIX Rules 1 and 2 CPC and held, thus-

◆ The discretion of the court is exercised to grant a temporary injunction only when the following requirements are made out by the Plaintiff:

(i) existence of a prima facie case as pleaded, necessitating protection of the Plaintiff's rights by issue of a temporary injunction;

(ii) when the need for protection of the Plaintiff's rights is compared with or weighed against the need for protection of the Defendant's rights or likely infringement of the Defendant's rights, the balance of convenience titling in favour of the Plaintiff; and

(iii) clear possibility of irreparable injury being caused to the Plaintiff if the temporary injunction is not granted.

In addition, temporary injunction being an equitable relief, the discretion to grant such relief will be exercised only when the Plaintiff's conduct is free from blame and he approaches the court with clean hands. ◆

PERPETUAL (PERMANENT) INJUNCTIONS

37. A permanent injunction is a decree granted by the Court upon the merits of the suit, whereby the defendant is perpetually restrained from doing any act which would violate or infringe the existing legal right of the plaintiff. A permanent injunction is final and conclusive of the facts in the context of which the injunction is granted. Section 37(2) read with Section 38 of the Specific Relief Act, 1963 regulates the same which is as under-

◆ Section 38: (1) Subject to the other provisions contained in or referred to by this Chapter, a perpetual injunction may be granted to the Plaintiff to prevent the breach of an obligation existing in his favour, whether expressly or by implication.

(2) When any such obligation arises from contract, the court shall be guided by the rules and provisions in Chapter II. when the defendant invades or threatens to invade the plaintiff's right to, or enjoyment-of, property, the Court, may grant a perpetual injunction in the following cases, namely:

(a) Where the defendant is trustee of the property for the plaintiff;

(b) Where there exists no standard for ascertaining the actual damage caused or likely to be caused, by the invasion;

(c) Where the invasion is such that compensation in money would not afford adequate relief;

(d) Where the injunction is necessary to prevent a multiplicity of judicial proceedings. ◆

38. This Preventive relief of injunction is purely discretionary in nature. The Court is not bound to grant such relief merely because it is lawful to do so. It is a settled principle of law that the exercise of discretion depends upon the facts and circumstances prevailing in each case. A bare reading of the section 38 of the Act, 1963, makes it clear that a perpetual injunction is an equitable and discretionary relief, to be granted by the Court after considering all relevant factors, the nature of the substantive rights involved, the conduct of the parties, and the facts and circumstances of the case, so as to ensure the due protection and preservation of the substantive rights of the parties. No person can claim the grant of such relief as a matter of right. The view of this Court finds support from the law laid down by the Hon^{ble} Supreme Court in the matter of Padhiyar Prahladiji Chenaji Vs. Maniben Jagmalbhai & Ors, reported in 2022 (2) SCR 455 and Cotton Corporation of India Limited vs. United Industrial Bank Limited & Ors. Reported in AIR 1983 SC 1272.

39. Further, the provision makes it clear that where the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, the property, the Court may grant a perpetual injunction in the circumstances specified therein. Thus, the grant of a perpetual injunction necessarily requires the Court to first determine the existence of the plaintiff's right to enjoy the property and the alleged invasion or threatened invasion of such right by the defendant. It is a settled law that before exercising its discretionary jurisdiction for grant of relief, the Court must consider the matter in its entirety and assess the cumulative effect of all relevant facts, documents, legal rights established by virtue of law, and the circumstances of the case, rather than placing reliance upon any single or isolated circumstance. As held by the Apex court in the matter of Nair Service Society Ltd. v. K.C. Alexander, AIR 1968 SC 1165; Anathula Sudhakar v. P. Buchi Reddy & others, 2008 (4) SCC 59.

40. It is also well settled that in a suit for permanent injunction, the Court is required to examine whether the plaintiff has established an existing legal right, whether such right is being infringed or threatened with infringement by the defendant, and whether the plaintiff is entitled to protection of such right through the equitable relief of injunction. The view of this Court is supported by the judgments of the Apex Court in the cases of Premji Ratansey Shah and others v. Union of India and others, 1994 (5) SCC 547; Maria Margarida Sequeira Fernandes and others v. Erasmo Jack de Sequeira 2012 (5) SCC 37 and Anathula Sudhakar v. P. Buchi Reddy 2008 (4) SCC 594.

MANDATORY INJUNCTIONS

41. Section 39 of the Specific Relief Act, 1963 provides for the grant of a mandatory injunction. It empowers the Court, in its discretion, to compel the performance of a particular act where such performance is necessary to prevent the breach of an obligation and is capable of being enforced by the Court. The provision, reads as under: -

◆ Mandatory injunctions- When, to prevent the breach of an obligation, it is necessary to compel the performance of certain

acts which the court is capable of enforcing, the court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts. ♦

42. Mandatory injunction is an injunction in a positive form, requiring a person or party to a suit to do a particular thing. It provides a remedy where it is not possible to restore the status quo, unless the wrongdoer is made to undo the wrong, which he has committed. It is granted when to prevent a breach of obligation, it is necessary to compel the performance of certain acts. It aims at restoration of things to status quo ante. This view finds support from the judgments of the Hon'ble Supreme Court in *Dorab Cawasji Warden v. Coomi Sorab Warden*, 1990 (2) SCC 117; *Metro Marins v. Bonus Watch Co. (P) Ltd.*, 2004 (7) SCC 478; and *State of Haryana v. State of Punjab*, 2004 (12) SCC 673. This injunction may require the restoration of the status quo ante or may direct the performance of a positive act resulting in an alteration of the existing state of affairs. A mandatory injunction, like a prohibitory or preventive injunction, may be either temporary or final in nature.

43. Recently, the Hon'ble Supreme Court in the matter of *Estate Officer, Haryana Urban Development Authority and Others v. Nirmala Devi*, 2025 INSC 843, while interpreting Section 39 of the Specific Relief Act, 1963, held that a mandatory injunction is a discretionary and equitable relief, grantable only upon proof of an enforceable legal obligation and its breach. The Court further observed that such relief requires satisfaction regarding the existence of the obligation, its breach, enforceability, necessity, and other equitable considerations before judicial discretion is exercised. The relevant paragraphs of the aforesaid judgment are quoted hereunder:

♦69. Although it is not necessary for us to look into Section 39 of the Specific Relief Act, 1963 (for short, the Act, 1963) or consider whether the suits instituted by the Respondents herein invoking Section 39 of the Act were maintainable in law, yet for the benefit of the courts below we would like to explain the scope and purport of Section 39 of the Act, 1963. We say so because irrespective of the question whether suits were maintainable in law or not we have decided to give the Respondents herein the benefit of the 2016 Scheme.

70. Section 39 of the Act 1963 reads thus:

39. Mandatory injunctions.-When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the court is capable of enforcing, the court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

71. The term ♦obligation♦ in Section 39 referred to above has been defined Under Section 2(a) of the Act 1963. The same reads thus:

♦obligation" includes every duty enforceable by law;

72. Obligation is a tie or bond which obliges one to do or suffer something. The term as defined in the Act 1963, means any duty enforceable by law and, therefore, excludes all imperfect obligations, such as moral, social and religious duties, as the performance of those duties cannot be enforced by law. As the present definition includes any duty enforceable by law, it includes:

- (a) Obligations arising out of law of torts as well as of contract.
- (b) Obligations arising out of trust.
- (c) Obligations arising out of a statute.

73. In the case on hand, the suits were instituted by the Respondents herein for mandatory injunction seeking allotment of plots in accordance with the scheme of 1992 floated by the State of Haryana.

74. This Section requires that the Defendant or the party concerned must be prevented from breach of an obligation under the contract. It further requires that certain special acts, which flow from such obligation, must be specifically proved. The acts must have reference to an enforceable obligation. The breach of obligation and performance and compulsion to perform certain acts in relation to such obligation must be specifically established before a mandatory injunction can be granted. The Plaintiff in a suit instituted by him Under Section 39 of the Act 1963 is obliged to satisfy the court with appropriate pleadings and cogent evidence that the Defendant is committing breach of a particular obligation which is binding on him and there are certain acts which are capable of being enforced by the court in view of the terms of the policy of allotment of plot so far as the case on hand is concerned.

75. Mandatory injunction by its nature embodied Under Section 39 of the 1963 Act is discretionary. The granting of mandatory injunction is a matter of judicial discretion of the court and it can be granted only in a case which falls strictly within the four corners of the provision - Section 39 of the Act 1963. The two elements which govern Section 39 of the Act 1963 for the grant of mandatory injunction are (i) the necessity to prevent breach of an obligation by the intervention of the court and (ii) that such acts should be of that nature capable of enforcement by the court. Yet another ingredient is also available which is crucial in the matter of grant of mandatory injunction that it should be 'amenable for exercise of judicial discretion'. A relief which is not amenable for exercising judicial discretion of the Court cannot be granted by way of a mandatory injunction. It should satisfy not only breach of an obligation and the necessity of its prevention, but also the availability of judicial discretion to be exercised. A mere breach of an obligation or necessity to prevent the same alone cannot be brought under the purview of mandatory injunction unless the same is amenable for exercising discretion by the Court.

a. Conditions for granting a Mandatory Injunction.

76. The Conditions for granting a mandatory injunction as developed over time by a catena of decisions of this Court may be summarized as under

- i) Obligation: There must be a clear obligation on the part of the Defendant.
- ii) Breach: A breach of that obligation must have occurred or be reasonably apprehended
- iii) Necessity: It must be necessary to compel the performance of specific acts to prevent or rectify the breach.
- iv) Enforceability: The court must be able to enforce the performance of those acts.
- v) Balance of Convenience: The balance of convenience must be in favour of the party seeking the injunction.
- vi) Irreparable Injury: The injury or damage caused by the breach must be irreparable or not adequately compensable in monetary terms.

77. Specific relief may, in brief be explained as relief in specie. It is the remedy which aims at the exact fulfilment of the obligation. The term 'obligation' as used in the Specific Relief Act in its wider juristic sense covers duties arising either ex-construction or ex-delicto. Every duty enforceable at law is obligation. The definition Clause of the Act of 1963 does not allow narrow interpretation of the word 'obligation' to restrict it to a contractual duty alone. The definition of the word 'obligation' as used in the Act of 1963 is wide enough and the definition cannot be equated with the definition of the word 'obligation' used in the English Law. 'Obligation' may be said to be a bond or tie, which constrains a person to do or suffer something, it implies a right in another person to which it is co-related, and it restricts the freedom of the obligee with reference to definite acts and forbearance; but in order that it may be enforced by a Court, it must be a legal obligation. The definition of 'obligation' in Section 2 of the Specific Relief Act is so wide that any breach of legal obligation may give a cause to the affected party. The definition of the word 'obligation' in Section 2 of the Act of 1963 should be interpreted in a way which may serve the cause of the society. ♦

Substantial Questions of Law framed by this Court

44. Now, reverting to the substantial questions of law framed in the present second appeal, the same are required to be considered in the light of the aforesaid settled legal principles.

45. First and the Third substantial questions of law are interconnected and, therefore, are being considered together in the light of the aforesaid settled principles of law.

46. The primary issue which arises for consideration is whether a relief of mandatory injunction under Section 39 of the Act, 1963 could have been granted in favour of the respondent directing the appellant not to obstruct her from placing her lock on the gate and from entering into, using and enjoying the property in dispute, despite the admitted position that the appellant was in possession and the respondent was not in actual physical possession of the property.

47. It is not in dispute that the appellant/plaintiff himself pleaded in the plaint that he had initially entered into the suit property with the permission of Late Jagdamba Prasad Gupta. Thus, his possession was not founded upon any independent right, title or interest in the property. The basis of his claim was subsequently sought to be altered by alleging that after the demise of Late Jagdamba Prasad Gupta, he became the owner of the property by way of succession and that the respondent was not the legally wedded wife of Late Jagdamba Prasad Gupta. However, such assertion was not supported by any declaration of a competent court nor could the appellant, being a third party, displace the rights flowing from the registered lease deed and the subsequent freehold deed executed in favour of the respondent, i.e., a wife of Late Jagdamba Prasad Gupta.

48. The material on record clearly establishes that the property was originally acquired jointly by Late Jagdamba Prasad Gupta and Smt. Pushpa Gupta through a registered lease deed dated 04.03.1995 executed by the Lucknow Development Authority LDA. Subsequently, upon conversion of the leasehold rights into freehold, a freehold deed was executed in favour of the respondent in the year 2022, thereby recognising her title and ownership over the property. Thus, the respondent's right, title, and interest in the property in question stood recognised on the basis of the registered documents executed by the competent authority.

49. In the present case, it is evident that the respondent's Counter-claim was not for conferment of any new right, but was confined to enforcement of her existing proprietary rights derived from the title documents and protection thereof against unlawful interference. The mere fact that the appellant was in actual physical possession at the relevant time could not, by itself, disentitle her from seeking protection of her lawful rights, particularly when the Appellant's possession was admittedly permissive in origin and no independent legal right was established by him. In my considered opinion, the appellant has failed to establish any legal right, title, or interest in the suit property, and his status cannot be recognized beyond that of a trespasser.

50. The contention of the appellant that the relief of mandatory injunction could not have been granted in the absence of a specific prayer for possession cannot be accepted in the facts and circumstances of the present case. Upon perusal of the record and after considering the submissions advanced by the learned counsel for the respective parties, it is evident that both the courts below have concurrently recorded a finding that the respondent, being the owner of the suit property, was entitled to the relief of mandatory injunction. The direction permitting the respondent to place her lock over the suit property and restraining the appellant from interfering with her peaceful use and enjoyment thereof was merely a consequential relief intended to secure and protect her established proprietary rights. Mere absence of a specific prayer for possession did not disentitle the Respondent from such relief, particularly when the Appellant had entered the property only with permission, i.e., as a mere licensee (permissive occupant/licensee) and had no independent right to continue in possession against the true owner. Since the Appellant had no independent right to continue in possession after termination of the licence, the relief granted under Section 39 of the Act was appropriate and did not require a separate prayer for possession. In *Maria Margida Sequeria Fernandes & Ors. v. Erasmo Jack de Sequeria (D) through LR. & Ors.*, (2012) 5 SCC 370, the Hon♦ble Supreme Court held Possession is important when there are no title documents and other relevant records before the Court, but, once the documents and records of title come before the Court, it is the title which has to be looked at first and due weightage be given to it. Possession cannot be considered in vacuum.

51. It is to be borne in mind that the nature of relief depends upon the rights established by the parties and not merely upon physical possession. Where the person in possession fails to establish any legal right to continue in possession and his possession is only permissive, the Court is competent to issue appropriate directions to prevent obstruction to the enjoyment of the property by the true owner. This view of this Court also finds support from the judgments of the Hon♦ble Supreme Court in the cases of *Dorab Cawasji Warden v. Coomi Sorab Warden*, 1990 (2) SCC 117; *Estate Officer, Haryana Urban Development Authority and Others (supra)* and *Sant Lal Jain v. Avtar Singh*, AIR 1985 SC 857, wherein it was held that mandatory injunction is granted to enforce an existing legal right and to restore the status quo ante where such right has been violated. For these reasons, the submission advanced by the learned counsel for the appellant does not appeal to the Court and, accordingly, deserves to be rejected.

52. Regarding the contention raised by the learned counsel for the Appellant that the respondent was not the legally wedded

wife of Late Shri Jagdamba Prasad Gupta and, therefore, was not entitled to any right in the property, the said contention, in my opinion, is wholly misconceived and beyond the scope of the present proceedings, particularly when the Respondent's rights flow from valid title documents executed in her favour. The Appellant, who is admittedly not a party to the matrimonial relationship, has no locus standi to challenge the marital status of the respondent and cannot be permitted to reopen an issue which is wholly different to the controversy involved in the present proceedings. In a suit for permanent injunction, the Court is primarily required to examine the existence of a legal right claimed by the plaintiff and whether such right has been invaded or is under a threat of invasion. The question regarding the marital status of the respondent does not arise for adjudication in the present proceedings, nor can the same be decided at the instance of a third party in a collateral proceeding. The attempt of the Appellant to dispute the marital status of the Respondent appears to be a mere device to unsettle her established rights and to create an unfounded claim over the property, without any independent legal right or foundation. The law laid down by the Hon'ble Supreme Court in the cases of *Anathula Sudhakar v. P. Buchi Reddy* 2008 (4) SCC 594; *Jharkhand State Housing Board Vs. Didar Singh and Ors.*, 2019 (17) SCC 692; *Sant Lal Jain v. Avtar Singh*, AIR 1985 SC 857; and *Bharatha Matha v. R. Vijaya Renganathan*, 2010 (11) SCC 483 supports the view taken by this Court.

53. Learned counsel for the appellant had placed heavy reliance upon the judgment of the Hon'ble Supreme Court in *Sanjay Paliwal and Others v. Bharat Heavy Electricals Ltd.*, MANU/SC/0062/2026, and contended that a relief of mandatory injunction, in the absence of a specific prayer for recovery of possession, is not maintainable. The Hon'ble Supreme Court, in paragraphs 17.1 to 19 of the judgment, had considered the scope and applicability of the relief of mandatory injunction while examining the earlier decisions in *Sant Lal Jain* (supra) and *Joseph Severance* (supra), and held as under:

17.1. In *Sant Lal*, the Appellant, a lessee of the property under the original owner, had granted a one-year licence to the Respondent to use a shed for workshop purposes. Upon expiry and revocation of the licence, the Respondent failed to vacate, leading the Appellant to file a suit for mandatory injunction directing delivery of possession. The trial court dismissed the suit by treating the Respondent as a sub-tenant, but the first appellate court reversed this finding, holding that the relationship was purely that of licensor and licensee, no rent or tenancy having been proved, and that there was no undue delay in bringing the suit. It was further held that, in such factual circumstances, a suit for mandatory injunction is maintainable without filing a separate suit for possession, as the Respondent's occupation was admittedly permissive and became unlawful after revocation of licence. In second appeal, the High Court allowed additional evidence showing that the Respondent had subsequently purchased the property from the original owner and, on that basis, restored the trial court's dismissal.

17.2. This Court reversed the findings of the High Court and restored the decree in favour of the Appellant, holding that the Respondent's subsequent purchase of the property from the original owner did not extinguish the Appellant's subsisting lease nor legitimise the Respondent's possession. A licensee is bound to first surrender possession upon termination and cannot set up title in himself while continuing in possession. There was no merger of rights since the licence had already been revoked prior to the sale. The Court reiterated that, where possession is permissive and no dispute of title arises, a mandatory injunction itself constitutes an efficacious remedy, and the Plaintiff cannot be non-suited merely because the relief effectively results in recovery of possession. Accordingly, the appeal was allowed and the Respondent was directed to deliver vacant possession to the Appellant.

18. It is now important to refer to the factual matrix of *Joseph Severance and Ors v. Benny Mathew and Ors.* (supra) as the counsel for the Appellants/Plaintiffs has relied on this decision heavily.

18.1. In case of *Joseph Severance* the Appellants, owners of the plaint schedule property, had granted a licence to the predecessor of the Respondents to construct and run a cinema theatre for a fixed period, with a clear stipulation that upon expiry the licensee they would demolish the structures and surrender vacant possession. After the death of the original licensee and expiry of the renewed licence period, the Appellants issued notice and filed a suit seeking mandatory injunction to vacate and demolish the structures, along with prohibitory injunction. Both the trial court and the first appellate court found that the licence had come to an end, that the Defendants had no tenancy or independent right, and that their continued occupation was unauthorised. On these findings, the courts held that a suit for mandatory injunction was maintainable in the given factual scenario and decreed the suit. However, the High Court in second appeal reversed the decree, holding that since the Defendants were ex-licensees, the Appellants ought to have filed a suit for recovery of possession, and further held that there was delay in filing the suit.

18.2. This Court set aside the High Court's judgment, holding that the approach was contrary to settled law and procedurally unsustainable as no substantial question of law was framed Under Section 100 Code of Civil Procedure. On merits, the Court reiterated that a licensee does not become a trespasser immediately upon termination of licence, and that where the licensor approaches the court within a reasonable time, a suit for mandatory injunction is maintainable without driving the Plaintiff to a separate suit for possession, particularly to avoid multiplicity of proceedings. The question of "reasonable time" is fact-dependent, and in the present case the Plaintiffs' explanation was plausible, no specific plea or evidence of unreasonable delay had been raised earlier, and the issue could not be introduced for the first time in second appeal. Relying on *Sant Lal Jain v. Avtar Singh* (supra), this Court held that technical objections as to the form of the suit should not defeat substantive rights, and accordingly restored the maintainability of the suit for mandatory injunction, allowing the appeal.

19. In view of the aforesaid factual analysis, we are of the considered opinion that the reliance placed by the learned Senior Counsel for the Plaintiffs on the decisions in *Sant Lal Jain* and *Joseph Severance* does not advance the case of the Plaintiffs and is inapplicable to the facts of the present case. This conclusion is reached for several reasons. Firstly, in both the aforesaid decisions, the Defendants had entered into possession of the property permissively as licensees. Secondly, the relationship between the parties was either admitted or conclusively proved. Thirdly, the alleged dispossession was recent, and Fourthly, there existed no serious dispute with regard to title or the identity and boundaries of the property. It thus follows that the ratio laid down in *Sant Lal Jain* and *Joseph Severance* applies to cases involving permissive possession. In contradistinction, in the present case, as noticed in paragraph 12 hereinabove, there exists a serious dispute concerning both title and possession, coupled with serious dispute about identity of the land in question viz. suit schedule property.

Consequently, the ratio of the aforesaid decisions cannot be extended to the present factual matrix. ♦

54. In the aforesaid decision, Hon'ble Supreme Court had distinguished Sant Lal Jain (supra) and Joseph Severance (supra) on facts, holding that the ratio laid down therein applies where the defendant had entered into possession permissively as a licensee, and there is no serious dispute regarding the title, possession, identity or boundaries of the property. Since the case before the Hon'ble Supreme Court involved substantial disputes on these issues, the said decisions were held to be inapplicable.

55. The reliance placed by the learned counsel for the appellant on the judgment of the Hon'ble Supreme Court in Sanjay Paliwal (supra) is clearly not applicable to the facts of the present case at hand. The said judgment does not render any assistance to the case of the appellant and is clearly distinguishable on facts. In paragraphs 17 to 19 of the said judgment, the Hon'ble Supreme Court itself clarified that the principle regarding maintainability of a suit for mandatory injunction simpliciter would depend upon the nature of the controversy involved, particularly where there exists a serious dispute regarding title, possession, or identity of the property require adjudication. However, the facts of the present case stand on an entirely different footing. There is no such dispute requiring adjudication of complicated questions of title or identity of the property. The appellant's possession is not founded on any independent right, title, or interest but is admittedly permissive in nature. Therefore, the ratio laid down in Sanjay Paliwal does not advance the case of the appellant.

56. On the contrary, the ratio laid down by Hon'ble Supreme Court in Sant Lal Jain (supra) still holds the field, and is squarely applicable to the facts of the present case. It has been held therein that a permissive occupant/licensee cannot be permitted to retain possession against the true owner after the termination of the licence, nor can he claim any independent right or title merely on the basis of his possession. The appellant, having entered into possession only as a licensee, is therefore bound to surrender the property to the respondent, who has established her lawful right therein.

57. Applying the principles laid down by the Hon'ble Supreme Court in Sant Lal Jain (supra) and Joseph Severance (supra), as explained and distinguished in Sanjay Paliwal, to the facts of the present case at hand, it is, therefore, clear that the respondent's case squarely falls within the category of cases warranting the grant of a mandatory injunction to effectively enforce and protect her existing proprietary rights. The appellant himself has unequivocally admitted in the plaint that his initial entry into the property was purely permissive in nature as a licensee under Late Jagdamba Prasad Gupta and the respondent. The identity of the property is undisputed, and the respondent's rights are founded upon a registered lease deed dated 04.03.1995 executed jointly in her favour, followed by a freehold deed executed by the competent authority in the year 2022. There is no dispute regarding the identity of the property or the source of the respondent's title. Thus, the factual circumstances of the present case satisfy the principles governing permissive possession as laid down in Sant Lal Jain (supra) and Joseph Severance (supra). The judgment in Sanjay Paliwal (supra) also supports the proposition that where permissive possession, established relationship between the parties, and absence of dispute regarding identity of property are present, the relief of mandatory injunction cannot be rejected merely on the ground that a separate prayer for possession has not been made. Accordingly, the reliance placed by the appellant does not assist his case, and the aforesaid judicial principles support the grant of relief in favour of the respondent.

58. Therefore, considering the entire facts and circumstances of the case, including the admission of the appellant regarding the permissive nature of his possession, the registered lease deed, the freehold deed executed in favour of the respondent, and the absence of any legal right established by the appellant, the learned Courts below were justified in granting the relief of mandatory injunction in favour of the respondent. Besides, it is well settled legal proposition that a party seeking a permanent injunction to restrain interference of third party, he must establish lawful possession of the property. The plaintiff must succeed on the strength of his own case and cannot rely on the weakness of the defendant's case. It is the duty of the appellant/plaintiff to establish his case on the strength of his own pleadings, evidence and the legal documents relied upon by him.

59. The Hon'ble Supreme Court in the matter of Union of India (UOI) and Ors. vs. Vasavi Co-op. Housing Society Ltd., 2014 (2) SCC 269 held that, it is trite law that, in a suit for declaration of title and possession burden always lies on the plaintiff to make out and establish a clear case for granting such a declaration and the weakness, if any, of the case set up by the defendants would not be a ground to grant relief to the plaintiff. This ratio was further affirmed and elaborated in Jagdish Prasad Patel (Dead) through LRs. and Others v. Shivnath and Others, 2019 (6) SCC 82, wherein it was held that a plaintiff seeking declaration of title and possession must succeed on the strength of his own title and not on the weakness of the case set up by the defendants. The burden always lies upon the plaintiff to establish his own right, title and entitlement to the relief claimed. This ratio has again been reiterated by the Hon'ble Supreme Court in P. Kishore Kumar v. Vittal K. Patkar, 2019 (17) SCC 692. Thus, in view of the law laid down by the Hon'ble Supreme Court, it is clear that in a suit for injunction, the plaintiff cannot succeed merely on the basis of the weakness of the defence or by disputing the rights of the defendant. The plaintiff must stand on his own legs and establish the existence of a subsisting and enforceable legal right in his favour, along with its infringement or a threatened invasion by the defendant. The burden lies upon the plaintiff to prove his own case, and relief cannot be granted merely because the defendant has failed to establish his defence.

60. Further, a person who enters into possession of a property as a permissive occupant/licensee cannot, in any circumstance, claim a decree of permanent injunction by denying the title or authority of the person who permitted such possession. The relationship of licensor and licensee carries with it an acknowledgment of the title of the licensor, and such licensee is estopped from disputing the title of the person under whom he was permitted to occupy the property. This principle is statutorily recognised under Section 116 of the Indian Evidence Act, 1872 Act, which squarely applies to this case and provides that a licensee is barred from denying the title of the licensor from whom he derived his possession. A licensee, having entered into possession under the authority of the true owner, cannot be permitted to challenge the title of such owner or set up a claim contrary to the owner. I find supports to the view of this Court from the judgments of the Hon'ble Supreme Court in Sant Lal Jain (supra); S.K. Sarma Vs. Mahesh Kumar Verma, 2002 (7) SCC 505 and R.S. Maddanappa v. Chandramma, AIR 1965 SC 1812, wherein it has been held that a licensee, having entered into possession under the

authority of the licensor, is estopped from denying the title of the person from whom he derived possession.

61. Therefore, once the appellant himself admits that his entry into the property was permissive in nature, he cannot be permitted to set up a claim contrary to the title of the true owner or seek equitable protection of injunction against the person from whom his possession originated. A permissive occupant/licensee cannot convert permissive possession into an independent right by merely disputing the title of the licensor. Consequently, the burden lay upon the appellant to establish an independent legal right entitling him to the relief of permanent injunction, which could not be discharged merely by questioning the respondent's title. This view is supported by the ratio laid down by the Hon'ble Supreme Court in *Sant Lal Jain* (supra) and *Joseph Severance* (supra).

62. Even if the Appellant sought to challenge the maintainability of the counter-claim for mandatory injunction filed by the respondent, it was still incumbent upon him to establish his own independent legal right, title, or interest in the property. A person claiming protection of possession by way of permanent injunction cannot succeed merely by questioning the entitlement of the opposite party; he must establish that his own possession is lawful and supported by a legally enforceable right. The Hon'ble Supreme Court in *Vasavi Cooperative Housing Society Ltd.* (supra), had held that the plaintiff has to succeed on the strength of his own case and cannot be permitted to seek relief merely on the weakness of the defence.

63. Further, a person who enters into possession of a property as a permissive occupant/licensee cannot, in any circumstance, claim a decree of permanent injunction by denying the title or authority of the person who permitted such possession. In the matter of *Albert Morris v. K. Chandrasekaran and Ors.*, 2006 (1) SCC 228 the Apex Court had held that a right in law exists only and only when it has a lawful origin.

64. Thus, in view of the law laid down by the Hon'ble Supreme Court in *Sant Lal Jain* (supra) and *Joseph Severance* (supra), it is clear that a permissive occupant/licensee, having entered into possession with the permission of the owner, cannot claim any independent right or equitable protection of injunction by disputing the title of the licensor and is bound to surrender possession upon termination of the licence. Therefore, merely objecting to the respondent's counter-claim for mandatory injunction would not absolve the appellant from establishing any legal right to continue in possession of the property.

65. Now, the question also arises for consideration is whether the learned Trial Court was justified in granting the relief of mandatory injunction under Section 39 of the Specific Relief Act, 1963, in favour of the respondent by directing the plaintiff not to obstruct the respondent from putting her lock on the gate and from entering into, using and enjoying the property in dispute. On a perusal of the order passed by the learned Trial Court, it is evident that the direction issued therein is a lawful and positive measure to protect the established rights of the respondent, who is the absolute owner of the property in dispute. In the present case by virtue of a valid document / deed executed by the Lucknow Development Authority (LDA). The Court, while granting mandatory injunction, has only ensured enforcement and protection of the respondent's lawful rights attached to the property.

66. A mandatory injunction cannot be granted to create a new state of things. Where the possession of the plaintiff has been violated pending proceedings, an order of mandatory injunction can be passed to restore possession. In order to grant mandatory injunction, the plaintiff must show that there has been a breach of legal obligation and that it is necessary to maintain the status quo. The view of this Court is in consonance with the settled principles of law laid down by the Hon'ble Supreme Court in *Dorab Cawasji Warden v. Coomi Sorab Warden*, 1990 (2) SCC 117, *Metro Marins v. Bonus Watch Co. (P) Ltd.*, 2004 (7) SCC 478 and *State of Haryana v. State of Punjab*, 2004 (12) SCC 673, wherein it has been held that a mandatory injunction is intended to enforce an existing legal right, restore the status quo ante by undoing the wrongful act.

67. In the matter of *Maria Margarida Sequeira Fernandes and others v. Erasmo Jack de Sequeira (Dead) through LRs*, 2012 (5) SCC 370, the Supreme Court has reiterated the principle of law with regard to the suit for mandatory injunction. Paragraph 80 of the states as under :◆

Suit for Mandatory Injunction

"80. It is a settled principle of law that no one can take law in his own hands. Even a trespasser in settled possession cannot be dispossessed without recourse of law. It must be the endeavour of the Court that if a suit for mandatory injunction is filed, then it is its bounden duty and obligation to critically examine the pleadings and documents and pass an order of injunction while taking pragmatic realities including prevalent market rent of similar premises in similar localities in consideration. The Court's primary concern has to be to do substantial justice. Even if the Court in an extraordinary case decides to grant ex◆parte ad interim injunction in favour of the plaintiff who does not have a clear title, then at least the plaintiff be directed to give an undertaking that in case the suit is ultimately dismissed, then he would be required to pay market rent of the property from the date when an ad interim injunction was obtained by him.◆

68. The ratio laid down by the Hon'ble Supreme Court in the matter of *Estate Officer, Haryana Urban Development Authority and Others* (supra), discussed hereinabove in detail, while considering the scope and purport of Section 39 of the Act, 1963, lays down that the relief of mandatory injunction is discretionary in nature and can be granted only where an enforceable legal obligation exists and its breach is established. The Hon'ble Supreme Court had further held that, before granting a mandatory injunction, the Court must be satisfied regarding the existence of such obligation, the breach thereof, the necessity of directing the performance of a specific act, its enforceability, and the equitable considerations governing the exercise of judicial discretion.

69. Thus, when the facts of the present case are examined in the light of the law laid down by the Hon'ble Supreme Court in *Estate Officer, Haryana Urban Development Authority and Others* (supra), the Appellant's arguments cannot be accepted, whereas the Respondent's arguments is fully supported. The Hon'ble Supreme Court has held that the foundation for grant of mandatory injunction under Section 39 of the Act, 1963 is the existence of an obligation enforceable by law and the breach thereof. The term ◆obligation◆ includes every duty enforceable by law, and mandatory injunction may be granted where the Court is required to compel performance of a specific act to prevent or remedy such breach.

70. In the present case, the respondent, being the recorded owner of the suit property, had a legally enforceable right to its

peaceful possession and enjoyment, which created a corresponding obligation upon the appellant, who was occupying the property permissively, not to obstruct or interfere with such lawful enjoyment. The appellant, having failed to establish any independent right in the property, was under an obligation to restore the respondent's lawful enjoyment. Thus, the decree of mandatory injunction granted by learned Courts below in favour of the respondent is in accordance with the principles laid down by the Hon^{ble} Supreme Court.

71. For the reasons recorded hereinabove, Substantial Questions of Law Nos. (I) and (III) are not in favour of the Appellant and are accordingly answered against the appellant and in favour of the Respondent.

72. So far as the Second substantial question of law is concerned, the learned counsel for the Appellant vehemently contended that, in view of Sections 5(i) and 11 of the Hindu Marriage Act, 1955, the respondent could not be treated as the legally wedded wife of Late Dr. Jagdamba Prasad Gupta, as her alleged marriage was solemnized during the subsistence of her earlier marriage with Shri Ram Bahadur Gupta. It was, therefore, argued that the marriage was void ab initio and the respondent acquired no right in the estate of Late Dr. Jagdamba Prasad Gupta. It was further contended that the findings recorded by the courts below regarding the marital status of the respondent, relying upon the order passed by the Civil Judge (Senior Division), Azamgarh in Case No. 180 of 2007 under Section 372 of the Indian Succession Act, 1925, are perverse in view of the alleged contrary evidence available on record.

73. At the outset, it is to be noted that the appellant, being a stranger to the matrimonial relationship, has no locus standi to challenge the marital status of the respondent in the present proceedings. The order passed by the Civil Judge (Senior Division), Azamgarh in proceedings under Section 372 of the Indian Succession Act, 1925, recognizing the status of the respondent, was passed by a competent court after considering the material available on record and cannot be termed as perverse merely on the basis of an attempt made by the appellant to dispute the same in collateral proceedings. The appellant cannot be permitted to agitate an issue which does not arise for determination in the present case.

74. Moreover, the respondent's rights over the property in dispute cannot be doubted merely by challenging her marital status. It is significant that at the time of execution of the registered lease deed in the year 1996, Late Dr. Jagdamba Prasad Gupta himself mentioned the respondent as his wife, and during his entire lifetime, he never took any step to dispute, cancel, or challenge the said document or the status of the respondent. No proceedings were ever initiated by him questioning the marital relationship. In such circumstances, a stranger to the matrimonial relationship cannot be permitted to question the status of the respondent or challenge the rights flowing from the said documents, particularly when he has no independent right, title, or interest in the property.

75. Furthermore, the respondent's title does not rest merely upon her status as the wife of Late Dr. Jagdamba Prasad Gupta. The property was subsequently converted into freehold and a registered conveyance deed was executed in her favour by the Lucknow Development Authority, thereby conferring absolute ownership upon her. The appellant, who has neither challenged the said registered conveyance deed nor established any superior title, cannot be permitted to defeat the respondent's lawful rights by raising an issue which was never disputed by the person competent to do so during his lifetime.

76. Section 11 of the Hindu Marriage Act, 1955 can also be taken into consideration which provides that any marriage solemnised after the commencement of the Act shall be null and void and may, on a petition presented by either party thereto against the other party, be so declared by a decree of nullity if it contravenes any of the conditions specified under clauses (i), (iv) and (v) of Section 5 of the Act. Thus, the statutory remedy for declaration of nullity of marriage is available only to the parties to the matrimonial relationship and does not confer any right upon a third person to challenge the validity of such relationship in collateral proceedings. The learned counsel for the appellant fairly accepted the aforesaid statutory mandate. But at the same time the Counsel for the appellant cited the judgment of the Hon^{ble} Supreme Court in *Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav and Anr.* (1988) 1 SCC 530. Recently, in *Sukhdev Singh v. Sukhbir Kaur*, AIR 2025 SC 951 the Hon^{ble} Supreme Court distinguished the decision relied upon by the appellant on the nature and scope of the proceedings involved and held as under-

“We come to the decision relied upon by the Appellant- husband. In the first decision in the case of *Yamunabai Anantrao Adhav* (supra), this Court was dealing with an application Under Section 125 of the Code of Criminal Procedure. This Court held that when a marriage is nullity by Section 25 of the 1955 Act, the spouse of such marriage is not entitled to get the benefit of Section 125 of the Code of Criminal Procedure. Section 125 of the Code of Criminal Procedure operates altogether in a different field. It is a quick and efficacious remedy made available to a wife or a child to seek maintenance. The proceedings Under Section 125 of the Code of Criminal Procedure are of a summary nature. While deciding the applications Under Section 125 of the Code of Criminal Procedure, a summary procedure is required to be followed, and a detailed adjudication of the rights of the parties cannot be made. The same is the legal position as regards the corresponding remedy Under Section 144 of the BNSS. Hence, the decision in the case of *Yamunabai* (1988) 1 SCC 530 will have no application to Section 25.”

77. The Hon^{ble} Supreme Court also while considering the case of *Yamunabai* (supra) in *Ramesh Chandra Rampratapi Daga vs. Rameshwari Rameshchandra Daga*, 2005 (2) SCC 33, held that a Hindu marriage can be dissolved only in accordance with the provisions of the Act by obtaining a decree of divorce from the Court. Hence, the judgment of *Yamunabai* case (supra) is also not helpful to the appellant. Further in the case of *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra & others*, (2013) 4 SCC 465, wherein it has been held that, it is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/ court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/ action/ order, etc. in a court of law.

78. Taking note of the aforesaid judgment and the basic principles governing a suit for permanent injunction, this Court has no hesitation in holding that raising such an issue in a suit for permanent injunction simpliciter is wholly impermissible, being beyond the scope and ambit of such proceedings.

79. Thus, in view of the aforesaid discussion, the argument advanced by the learned Counsel for the appellant regarding the marital status of the Respondent, while completely ignoring her established rights as the owner of the suit property, is legally

untenable and devoid of merit. The findings recorded by the Courts below recognizing the Respondent as the legally wedded wife of Late Dr. Jagdamba Prasad Gupta, on the basis of the material on record, do not suffer from any perversity or illegality.

80. Accordingly, the Second Substantial Question of Law is answered against the appellant and in favour of the respondent.

81. Regarding Fourth Substantial Questions of Law, the counsel for the Appellant submitted that Courts below have committed a manifest error of law in relying upon documentary evidence which was neither admitted nor proved in accordance with the mandatory procedure prescribed under Order VII Rule 14, Order VIII Rule 1A and Order XIII Rule 1 CPC. He further urged that mere filing of a document does not make it admissible in evidence unless it is duly proved in accordance with law. He also urged that the findings recorded by the Courts below are primarily based upon such unproved documents and, therefore, suffer from perversity. He further also urged that the violation of mandatory procedural safeguards has caused serious prejudice to the appellant and vitiated the entire adjudication. Hence, the concurrent findings do not deserve interference under Section 100 CPC.

82. Per contra, learned counsel for the respondent submits that the Appellant has failed to demonstrate as to which particular document was inadmissible in evidence, and at what stage any objection regarding its admissibility was raised before the learned civil Court, and in what manner the alleged procedural irregularity has caused any prejudice or resulted in failure of justice. He also submitted that a vague and general allegation that the documents were not subjected to admission and denial is wholly insufficient to dislodge the concurrent findings of fact recorded by both the Courts below. It is further submitted that the objection regarding non-compliance of the procedure for admission and denial of documents has been raised for the first time before this Court in the present second appeal. The appellant, having participated in the proceedings in the courts below, without raising any objection at the appropriate stage and having allowed the documents to be considered, cannot be permitted to challenge their admissibility at this belated stage. Such an objection, involving disputed facts, which cannot be entertained for the first time under Section 100 CPC.

83. Upon considering the submissions advanced by Counsel for the both the parties, it is clear that the provisions contained in Order VII Rule 14, Order VIII Rule 1A and Order XIII Rule 1 of the Code of Civil Procedure primarily regulate the procedure relating to production and disclosure of documents.

84. It is a settled principle of law that, procedural rules are intended to advance the cause of justice and not to defeat it. Procedural provisions are the handmaid of justice and not its mistress; they are meant to facilitate the adjudication of disputes on merits rather than to defeat substantive rights on technicalities. Thus, mere procedural irregularity, in the absence of any prejudice caused to a party, does not render the proceedings invalid or the documents inadmissible. In the present case, the appellant neither objected to the exhibition of the documents at the appropriate stage nor sought their exclusion from consideration. Having allowed the documents to be exhibited and considered by the learned Courts below without any timely objection, the appellant cannot be permitted to challenge their admissibility for the first time in the second appeal. The aforesaid principle finds support from the judgments of the Hon^{ble} Supreme Court in Sangram Singh v. Election Tribunal, Kotah, AIR 1955 SC 425, Kailash v. Nanhku, 2005 (4) SCC 480; R.V.E. Venkatachala Gounder v. Arulmigu Viswesaraswami & V.P. Temple, AIR 2003 SC 4548; The State of Punjab and Anr. v. Shamlal Murari and Anr. (1976) 1 SCC 719 and Ghanshyam Dass and Ors. v. Dominion of India and Ors. (1984) 3 SCC 46.

85. A question was specifically put by this Court to the learned counsel for the appellant as to whether any such objection was ever raised before the courts below remained unanswered. It appears that the appellant neither raised any objection to the exhibition of the documents at the appropriate stage nor sought their exclusion from consideration. On the contrary, the parties proceeded with the case in the courts below, adduced oral and documentary evidence, and participated in the proceedings. In such circumstances the appellant cannot be permitted to question their admissibility for the first time in the second appeal after recording of concurrent findings by the courts below. The view taken by this Court is further fortified by the judgment of the Hon^{ble} Supreme Court in Deepak Tandon vs. Rajesh Kumar Gupta, AIR 2019 SC 924, wherein the Hon^{ble} Supreme Court held:"

◆Fourth, it is a settled law that if the plea is not taken in the pleadings by the parties and no issue on such plea was, therefore, framed and no finding was recorded either way by the Trial Court or the First Appellate Court, such plea cannot be allowed to be raised by the party for the first time in third Court whether in appeal, revision or writ, as the case may be, for want of any factual foundation and finding.◆

86. Even otherwise, mere non-compliance with procedural requirements relating to admission or denial of documents does not by itself make a document inadmissible in evidence. The admissibility of a document depends upon the provisions of the Indian Evidence Act and the law governing proof of documents, whereas the provisions relied upon by the appellant regulate the procedure for production and filing of documents. The two concepts are distinct and cannot be conflated.

87. Furthermore, the findings recorded by both the learned Courts below are not based solely upon the documents questioned by the appellant. The same are founded upon a cumulative appreciation of the pleadings, title documents, oral and documentary evidence, and the surrounding facts and circumstances. The appellant has failed to demonstrate that exclusion of any such document would have materially altered the concurrent findings recorded by the Courts below.

88. It is equally well settled that concurrent findings of fact cannot be interfered with in a second appeal merely by alleging procedural irregularities unless such findings are shown to be perverse, based on no evidence, or arrived at by ignoring material evidence or applying an incorrect principle of law. No such circumstance exists in the present case. The Hon^{ble} Supreme Court in the matter of Divyangnakumari Harisinh Parmar (Dead) and Ors. vs. Union of India (UOI) and Ors., 2026(1) ABR149 held that the general Rule is that High Court will not interfere with the concurrent findings of the courts below. The same view was also earlier taken by the Hon^{ble} Supreme Court in the matter of Hero Vinoth v. Seshammal, 2006 (5) SCC 545.

89. In view of the aforesaid discussion, this Court answers the Fourth Substantial Question of Law in the negative, against the Appellant and in favour of the Respondent.

90. Coming to the Fifth Substantial Question of Law, the learned counsel for the appellant vehemently argued that the learned

Courts below have committed a manifest error of law in relying upon the order passed by the learned Civil Judge (Senior Division), Azamgarh in proceedings under Section 372 of the Indian Succession Act, 1925, by recording a finding regarding the legal status and rights of the respondent. It is submitted that proceedings under Section 372 of the Act are summary in nature and are limited only for the purpose of grant of succession certificate. He further submitted that such proceedings do not involve any adjudication of disputed questions relating to matrimonial status, title, or ownership of immovable property. Therefore, the said order could not have been treated as conclusive proof of the respondent's status as the legally wedded wife or as conferring any right over the property in dispute. In support of his contention, the learned Counsel for the appellant cited the judgments of *Madhvi Amma Bhawani Amma v. Kunjikutty Pillai Meenakshi Pillai*, (2000) 6 SCC 301, and *Joginder Pal v. Indian Red Cross Society*, AIR2000SC3279.

91. The Counsel for the Appellant further submitted that the learned Courts below have failed to appreciate the contrary evidence available on record, particularly the admissions made by the Respondent during cross-examination, which materially affect the claim set up by her. The findings recorded by the Courts below, is based solely on the basis of the order passed under Section 372 of the Indian Evidence Act, are therefore perverse and suffer from non-consideration of relevant evidence. Therefore, the said judicial order could not have been relied upon to defeat the lawful rights and claims of the appellant.

92. The learned counsel appearing for the respondent, while controverting the submissions advanced on behalf of the appellant, submitted that the Appellant has no locus to dispute the title and rights of the Respondent over the property in question. It is contended that the property was originally acquired by Late Jagdamba Prasad Gupta jointly with the Respondent by way of a registered lease deed dated 04.03.1995 executed by the Lucknow Development Authority. During the lifetime of Late Jagdamba Prasad Gupta, neither he nor any other person ever questioned the status of the respondent or her rights in the property.

93. It is further submitted that after the conversion of leasehold rights into freehold, the respondent acquired absolute title over the property by virtue of the freehold deed executed by the competent authority LDA in the year 2022. The said conveyance was executed by the statutory authority after due verification of the records and vested complete ownership rights in favour of the respondent. The appellant, who claims no independent right, title or interest in the property, cannot be permitted to challenge the respondent's ownership by raising collateral issues relating to her matrimonial status.

94. Counsel for the Respondent further submitted that the proceedings under Section 372 of the Indian Succession Act, 1925, wherein the Respondent was recognized as the wife of Late Jagdamba Prasad Gupta, were judicial proceedings passed by a competent Civil Court and are entitled to due recognition. The appellant, being a stranger to the matrimonial relationship, cannot seek to reopen or nullify the effect of such judicial proceedings in collateral proceedings.

95. It was further argued by counsel for the respondent that a suit for permanent injunction is a preventive remedy intended to protect an existing legal right. Once the respondent's right and status have been recognized through competent judicial proceedings and supported by registered documents, such rights cannot be defeated by a person who has failed to establish any better title or legal entitlement over the property.

96. It was emphatically submitted by counsel for the respondent that the registered lease deed dated 04.03.1995 and the subsequent freehold deed executed by the competent authority in favour of the respondent have attained finality and have never been assailed, questioned, or challenged by the appellant before any court of competent jurisdiction. The said documents continue to operate as valid and binding instruments conferring lawful rights and title upon the respondent.

97. Upon consideration of the submissions advanced, it is evident that the nature and scope of the present proceedings are also required to be kept in mind while adjudicating the issues involved. A suit for permanent injunction is essentially a preventive remedy intended to protect an existing legal right and preserve lawful possession. The jurisdiction of the Civil Court in such proceedings cannot be invoked by a person having no subsisting legal right or title to unsettle, defeat, or challenge the rights of the true and absolute owner. If the Appellant sought to dispute the title, status, or legal rights of the respondent arising from a valid document and judicial recognition, the appropriate remedy available to him under relevant law and it cannot indirectly challenge the absolute ownership and lawful rights of the Respondent in a suit for injunction simpliciter. This view finds support from the judgment of the Hon^{ble} Supreme Court in *Anathula Sudhakar v. P. Buchi Reddy*, 2008 (4) SCC 594, where it was held that a suit for injunction is primarily concerned with protection of an existing right and lawful possession, and where title itself is in dispute, the appropriate remedy is to seek declaration of title. Similarly, in *Premji Ratansey Shah v. Union of India*, 1994 (5) SCC 547, Hon^{ble} Supreme Court has been held that an injunction cannot be granted in favour of a person who fails to establish any lawful right.

98. In the present case, the status and rights of the respondent have already been recognized by a competent Civil Court in proceedings under Section 372 of the Indian Succession Act, 1925. Such judicial recognition cannot be brushed aside in a collateral proceeding merely on the basis of certain isolated statements extracted during cross-examination. The appellant, who is neither a party to the matrimonial relationship nor has any independent adjudicated right in the property, cannot seek to agitate or invalidate the effect of a judicial order passed by a competent court.

99. Applying the aforesaid principles to the facts of the present case, the respondent's rights having emanated from valid title documents and having further been recognised by a judicial order passed by a competent Civil Court, the Appellant cannot claim any superior right merely on the basis of electricity bills or other documents prepared after the death of Late Jagdamba Prasad Gupta, or by relying upon selective portions of cross-examination. The equitable jurisdiction of the Court cannot be invoked to defeat the lawful rights of the true owner or to protect a claim founded upon the absence of any legal entitlement. A person having no independent right, title or interest cannot seek protection of injunction against the lawful owner.

100. The alleged contradiction in the respondent's cross-examination, even if assumed, cannot by itself render the findings of the Courts below perverse. The evidence has to be appreciated as a whole and not by isolating stray answers from cross-examination. Both the Courts below have concurrently recorded findings after considering the entire material available on record.

101. So far as the judgments relied upon by the learned counsel for the appellant, namely, *Madhvi Amma Bhawani Amma*

(supra) and Joginder Pal (supra), are concerned, there can be no dispute with the law laid down by the Hon'ble Supreme Court therein. However, neither of these decisions lays down that a substantive issue arising from an order or finding can be reopened in a suit for permanent injunction without first availing the appropriate remedy against such order or finding. A party who has failed to challenge an order or finding in the manner known to law cannot be permitted to circumvent the same by raising the very issue indirectly in a suit for permanent injunction.

102. It is a settled principle of law that a person cannot be permitted to achieve indirectly what he is prohibited from doing directly. The Hon'ble Supreme Court in *Manjula and Others v. D.A. Srinivas*, 2026 INSC 465, reiterated that the judicial process cannot be permitted to be used as a means to circumvent legal consequences and that what cannot be done directly cannot be achieved indirectly through the medium of legal proceedings. In the present case, the appellant, having failed to institute any appropriate proceedings seeking cancellation, declaration, or setting aside of the registered lease deed, freehold deed and the succession certificate issued under Section 372 of the Indian Succession Act, cannot indirectly challenge the legal effect or sanctity of these documents in a collateral proceeding for permanent injunction merely by raising a dispute regarding the respondent's marital status.

103. The appellant cannot be permitted to bypass the statutory remedy of challenging the registered lease deed, freehold deed and the succession certificate granted under Section 372 of the Indian Succession Act and, at the same time, seek to defeat the rights flowing therefrom through mere allegations and collateral pleas. Unless and until the said registered instruments and the succession certificate are set aside or otherwise displaced in appropriate proceedings by a competent court, the rights flowing therefrom cannot be collaterally questioned in a suit for permanent injunction. The appellant's attempt to dispute the respondent's title and status without assailing the foundational documents is nothing but a collateral attack upon legally operative instruments and the succession certificate, which cannot be permitted in law.

104. Accordingly, for the reasons recorded hereinabove, Fifth Substantial Question of Law is answered in the negative, against the appellant and in favour of the Respondent.

105. The Sixth, Seventh & Eighth substantial questions of law are interconnected and, therefore, are being considered together.

106. Learned counsel for the appellant submitted that the respondent cannot claim exclusive ownership over the suit property merely on the basis of the allotment, lease deed, and subsequent freehold deed, as the appellant has consistently disputed her status and entitlement. It was contended that the suit for permanent injunction was maintainable to protect the appellant's settled possession, and no declaration was necessary as the principal relief sought was protection against forcible dispossession. It was further argued that even if title is disputed, a person in settled possession cannot be dispossessed except by due process of law, and the validity of the appellant's marital status and possessory rights required adjudication on evidence and could not be defeated solely on the respondent's claim of ownership. In support of his contention, learned counsel for the Appellant has placed reliance upon the decisions of the Hon'ble Supreme Court in *Sriram Pasricha v. Jagannath*, (1976) 4 SCC 184; *S.K. Golam Lalchand v. Nandu Lal Shaw*, AIR 2024 SC 4193; and *Kochkunju Nair v. Koshy Alexander*, (1999) 3 SCC 482.

107. This Court has carefully considered the aforesaid decisions rendered by the Hon'ble Supreme Court. So far as decision of *Sriram Pasricha* (supra), is concerned, the said decision was rendered in the context of a landlord-tenant relationship, whereas in the present case the Appellant was admittedly a permissive occupant and not a tenant. His licence having been revoked by the owner, his authority to remain in possession came to an end, and he cannot thereafter claim any independent right to retain possession or seek protection against the true owner. Therefore, the case of *Sri Ram Pasricha* (supra) does not advance the case of the Appellant. The judgment of *S.K. Golam Lalchand* (supra) also does not support the case of appellant. The said case concerned the rights of a co-owner in an undivided property, and in this case the Hon'ble Apex Court observed that the actions of the transferor to sale the entire suit property (where the other co-owners also had interest) could not bind the other co-owners as it would tantamount to depriving them from their valid share in the suit property, whereas in the case at hand, the appellant was admittedly only a permissive occupant and upon revocation of such permission, he acquired no independent right to continue in possession. Thus, the said decision does not advance the case of the Appellant. The reliance placed by learned counsel for the appellant on *Kochkunju Nair* (supra), also does not support the case of the Appellant. That case was concerned with the rights of a co-owner in jointly owned property. The Hon'ble Supreme Court observed that ownership imports three essential rights, namely, right to possession, right to enjoy and right to dispose. In the present case, however, the Appellant was admittedly only a permissive occupant and had no ownership or co-ownership right in the suit property. After revocation of the permission, he had no right to remain in possession of the property.

108. Thus, the submissions advanced on behalf of the Appellant do not merit acceptance. In the preceding paragraphs, this Court has already recorded a finding that the respondent has a valid and perfect right, title and interest over the property in dispute. The principles governing the grant of permanent injunction and the necessity of establishing an enforceable legal right have also been discussed hereinabove. In view of the aforesaid findings and settled principles, the appellant, having failed to establish any independent legal right or interest in the suit property, cannot seek a decree of permanent injunction against the respondent, who is the lawful owner thereof.

109. Again, at the cost of repetition, it is the considered opinion of this Court that the validity of the respondent's marriage cannot be permitted to be questioned in a simpliciter suit for permanent injunction, particularly when no such issue arises for adjudication in the present proceedings. The appellant, being a stranger to the matrimonial relationship between the respondent and Late Jagdamba Prasad Gupta, cannot indirectly challenge the respondent's legal status or title in a collateral proceeding by merely seeking the relief of injunction. The principles laid down by the Hon'ble Supreme Court in *Anathula Sudhakar v. P. Buchi Reddy (Dead) by LRs.*, 2008 (4) SCC 594 and *Jharkhand State Housing Board v. Didar Singh and Others*, 2019 (17) SCC 692, *Premji Ratansey Shah and Others v. Union of India and Others*, 1994 (5) SCC 547; *Sant Lal Jain v. Avtar Singh*, 1985 (2) SCC 332; and *Union of India v. Vasavi Cooperative Housing Society Ltd.*, 2014 (2) SCC 269 are

binding precedent. The appellant cannot circumvent or bypass the settled legal position by raising, in a collateral proceeding, an issue which can only be adjudicated in appropriate proceedings seeking substantive relief, as permissible under law. Accordingly, upon consideration of the aforesaid discussion, the Sixth, Seventh & Eighth substantial questions of law are answered against the Appellant and in favour of the Respondent.

110. Thus, this Court finds that the concurrent findings recorded by both the Courts below are based on a proper appreciation of the pleadings, evidence and material on record. The appellant has failed to demonstrate any perversity, illegality or error of law in the judgments and decrees under challenge.

111. Accordingly, instant second appeals deserve to be and are hereby dismissed leaving the parties to bear their own costs.

(Prashant Kumar,J.)

September 23, 2026

Anupam S/-

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