

Hari Ram vs Rajesh Kumar Beniwal Ors on 21 February, 2026

IN THE COURT OF JSCC/ASCJ/GUDN. JUDGE NORTH,
ROHINI COURTS, DELHI

Presided by: Nitish Kumar Sharma

CNR NO.DLNT030001632012
CS SCJ No.535114/2016

In the matter of :

Sh Hari Ram Mathur (Deceased through LR's)

- a. Smt. Raj Kali (Wife)
- b. Sh. Harit Mathur (Son)
- c. Ms. Ritu (Daughter)
- d. Ms. Seema (Daughter)
- e. Ms. Anuja (Daughter)

All R/o F-8, Kh. No.94/7/2,
Vardhman Enclave, Karala
Karala Delhi 110081

.....Plaintiffs

VERSUS

- 1. Sh Rajesh Kumar Beniwal
s/o Sh Pratap Singh
R/o 119, Village Pitampura,
Delhi 110034
- 2. Sh Kartar Singh
s/o Sh Richpal
R/o B-6/66, MIG Flats
Vishram Chowk, Sector 4,
Rohini Delhi 110085.
- 3. Sh Kuldeep Soni
s/o Sh Raja Ram
R/o A-160, A Block,
Near Sherawali Mandir
Jahangirpuri Delhi 110033.

.....Defendants

CS SCJ 35114/16

Hari Ram vs Rajesh Kumar Beniwal and Ors

1/22

NITISH KUMAR

SHARMA

Date of Institution	04.06.2012
Date of conclusion of arguments	03.02.2026
Date of pronouncement of Order	21.02.2026

Suit For Declaration and Injunction

JUDGMENT

The present suit has been instituted by the plaintiff seeking declaration and permanent injunction in respect of immovable property comprising in Khasra No. 94/7/2, situated in the revenue estate of Village Karala, Delhi, admeasuring in total 513 sq. yards, consisting of two distinct portions:

- (i) a contiguous built-up plot measuring 358 sq. yards (comprised of sub-plots of 80 sq. yards, 75 sq. yards and 203 sq. Yards shown as plot no. 7 and 8 in site plan), and
- (ii) a separate plot measuring 155 sq. yards, enclosed by boundary walls (shown as plot no. 10 in site plan).

Collectively, these parcels of land, forming part of the colony known as Vardhman Enclave, shall hereinafter be referred to as the suit property.

Facts as per plaint:

1. Shorn of unnecessary details, facts of the present case relevant for discussion are:

(a) That the plaintiff is owner and in possession of the suit property having purchased the same in the following manner:

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 2/22 NITISH KUMAR
DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT

2.5.4.20=f140210b78e4obb1aa8ea21ee4772f68400c66b290c SHARMA 049f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:31:30 +05'30' Sh Fateh Singh, Sh Suchet Singh, Sh Ajit Singh and Sh Devender Singh sold the land measuring 1066 sq yards comprising in Khasra no.94/7/2 situated in Village Karala, Delhi to defendant no.2

vide registered sale deed dated 22.03.1988.

Out of 1066 sq yards, the defendant no.2 further sold and transferred the land measuring 80 sq yards, 75 sq yards and 203 sq yards to plaintiff for consideration vide GPA documents dated 29.06.1992, 13.05.1994 and 07.02.2001.

Another plot of land measuring 155 sq yards was sold by defendant no.2 to Amit Isser, who sold the same to Shanti Swaroop Bansal. Later, Sh Shanti Swaroop Bansal sold the same to plaintiff on 21.09.1998. It is asserted that plot of land measuring 80, 75, 203 (total 358 sq yards) are at one place and are built up plots. However, the land measuring 155 sq yards is at another place and is enclosed by boundary walls.

(b) That defendant no.1 sent a legal notice dated 28.05.2012 to the plaintiff wherein he admitted the possession of plaintiff over the said plots comprising in khasra no.94/7/2 situated in Village Karala area known as Vardhman Enclave, Delhi.

(c) That defendant no.1 has claimed that suit property belongs to him on the basis of judgment and decree dated 06.09.2011 passed in a suit for injunction. It is stated that defendant no.1 had produced documents which disclosed that defendant no.2 executed certain agreement to sell in favour of defendant no.1 on 23.09.2010 qua land measuring 1066 sq yards out of khasra no.94/7/2, out of which 280 sq yards is covered area. It is stated that the defendant no.1 filed collusive suit against defendant no.2 and 3 which was CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 3/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT 2.5.4.20=f140210b78e4obb1aa8ea21ee4772f68400c66b290c SHARMA 049f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022f c52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:31:44 +05'30' decreed in favour of defendant no.1 vide decree dated 06.09.2011 whereby defendants no.2 and 3 were restrained from obstructing and disturbing peaceful possession of defendant no.1 over the suit property measuring 1066 sq yards in the said Khasra.

(d) It is further averred that neither of the defendants has any right, title or interest in the suit property nor defendant no.1 ever remained in possession of the same. The abovesaid decree and judgment were obtained fraudulently just to grab the suit property as the defendant no.2 never executed any document in favour of defendant no.1. It is further averred that suit property is situated in unauthorised colony where no regular sale deed is permitted to be registered, therefore, plaintiff has not got the sale deed registered qua suit property. The plaintiff has apprehension that there is threat to his possession over the suit property. Hence the present suit.

Relief

2. By way of this suit, the plaintiff seeks the following reliefs:

(a) A decree of declaration in favour of plaintiff and against the defendants thereby declaring the documents dated 23.09.2010 allegedly executed by defendant no.2 in

favour of defendant no.1 qua suit property as well as judgment and decree dated 06.09.2011 in suit no. 606/2010 titled as 'Rajesh Kumar Beniwal vs Kartar Singh and Anr' as null and void and not binding upon the plaintiff.

(b) A decree of permanent injunction in favour of plaintiff and against the defendants, their associates, assignees, successors, nominees, heirs, etc. thereby restraining them from dispossessing the plaintiff from the suit property and also from creating third CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 4/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT 2.5.4.20=f140210b78e4obb1aa8ea21ee4772f68400c66b290co49f SHARMA 2 e 2 9 4 b 8 e 3 4 6 6 7 7 7 0 3 , postal Code = 110085 , st = Delhi , serialNumber = edd79eb8c3ca6eba5b8135f3d7b500813c022fc523 28779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:31:56 +05'30' party interest by any kind of document in respect of the suit property total measuring 513 sq yards comprising in khasra no.

94/7/2 situated in village Karala area known as Vardhman Enclave, Karala Delhi.

Defendants no.1 Version

3. Litigation by its very nature has two sides to a story. To give its version, defendant no.1 filed his written statement stating therein that :

(a) The present suit is liable to be dismissed being barred by section 34 and 41(i) of Specific Relief Act as plaintiff has omitted to claim consequential relief.

(b) That defendant no.2 had never sold the suit property to plaintiff and that the defendant is a bonafide purchaser and in possession of entire 1066 sq yards. It is further submitted that defendant no.2 sold the land measuring 1066 sq yards to defendant no.1 and since then, defendant no.1 is in possession of the same.

Rest of the averments made in the plaint are denied in toto.

4. During the course of the proceedings, the defendants no.2 and 3 were proceeded against ex parte for non-appearance before the Court.

Issues :

5. Vide Order dated 31.05.2018, following issues were framed for trial :

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 5/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT 2.5.4.20=f140210b78e4obb1aa8ea21ee4772f68400c66b290co4 SHARMA 9 f 2 e 2 9 4 b 8 e 3 4 6 6 7 7 7 0 3 , postal Code = 110085 , st = Delhi ,

serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc5
2328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21
16:32:09 +05'30'

1. Whether the plaintiff is entitled for decree of permanent injunction as prayed for ?
OPP

2. Whether the plaintiff is entitled for decree of declaration as prayed for? OPP

3. Relief.

Local Commissioner's report

6. A local commissioner was appointed by the court who had duly submitted her report to the following effect:

(a) The alleged property of Hari Ram i.e. 358 sq yards was three side open and built up upto single storey and Hari Ram claimed himself to be in possession of the said property.

(b) The alleged property of Hari Ram i.e. 155 sq yards was a vacant plot.

Plaintiff's Evidence 7 (a). In order to prove his case the plaintiff examined himself as PW-1 and duly tendered his duly sworn in affidavit as Ex. PW1/A and relied on the following documents :-

S. No.	Particular	Exhibit
1.	Original site plan	Ex.PW1/1 (colly)
2.	Sale deed dated 22.03.1988	Mark PW1/2
3.	Sale documents dated 29.06.1992, 13.05.1994, 07.02.2001, 25.06.1988, 01.07.1989, 21.09.1998	Ex.PW1/3(OSR)
4.	Original Legal notice	Ex.PW1/4

4. Copy of election ID Card of wife and Ex.PW1/5(OSR) CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 6/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT ROHINI, 2.5.4.20=f14021ob78e40bb1aa8ea21ee4772f68400c66b29
0c049f2e294b8e346677703, postalCode=110085, st=Delhi, SHARMA
serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc5
2328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:32:22 +05'30' S. No. Particular Exhibit
daughters of PW1 with driving license and electricity bill Certified copy of entire order sheets, judgment and decree dated 06.09.2011 and affidavit of defendant no.1 in evidence PW1 was duly cross-examined by ld counsel for the defendant no.1.

(b) Plaintiff further examined Ms Anita Garg, JA, Record Room Rohini Courts, a summoned witness, as PW2 who brought the document i.e. Certified copy of original complete file of CS No. 606/2010 decided on 06.09.2011 vide Goshwara no.26 which are already exhibited as Ex.PW1/6(colly).

Another summoned witness Sh Raj Beer Singh Serwa, HOG (R&C) District Bawana TPDDL, Delhi was also got examined by plaintiff as PW3 who exhibited the statement of account in the name of plaintiff with certification u/s 65B as Ex.PW3/2.

(c) Plaintiff also examined Sh Shishu Kumar Sachdeva s/o Late Sh Jawahar Lal, who is witness to the documents executed by Sh Kartar Singh in favour of Sh Hari Ram Mathur qua land measuring 80, 75 and 203 sq yards of property in Khasra no.94/7/2, as PW4. He has also been cross-examined by ld counsel for defendant no.1.

(d) Sh Tarun Bansal s/o Sh Shanti Swaroop Bansal was also examined by plaintiff as PW5 vide his affidavit in evidence as CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 7/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c04 SHARMA 9f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc5 2328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:32:37 +05'30' Ex.PW5/A and exhibited copy his ID card as Ex.PW5/1 (OSR) and copy of death certificate of Sh Shanti Swaroop Bansal as Ex.PW5/2 (OSR). PW5 was cross-examined by ld counsel for defendant no.1. Thereafter, PE was closed and matter was fixed for DE.

Defendant's evidence

8. In order to substantiate his defence, defendant no.1 examined himself as DW1 vide his affidavit in evidence as Ex.DW1/A and he relied on the documents i.e. S.No. Particular Exhibit Copy of General Power of Attorney,

1. agreement to sell, affidavit, possession (OSR) letter

2. Certified copy of Deed of Will Ex.DW1/2

9. DW1 was cross-examined by ld counsel for plaintiff and DE was closed. Thereafter, the matter was listed for final arguments.

Arguments

10. It is argued by Ld. Counsel for the plaintiff that defendant no.1 himself admitted the possession of the plaintiff over the suit property by issuing legal notice dated 28.05.2012, and such admission estops him from disputing the plaintiff's settled possession.

It is contended by Ld. Counsel for the plaintiff that the report of the Local Commissioner as well as the summons served upon the legal representatives of the plaintiff in probate proceedings CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 8/22 NITISH KUMAR DN: c=IN, o=DELHI D I S T R I C T C O U R T S , o u = D I S T R I C T C O U R T 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290co SHARMA 49f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc 52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:32:54 +05'30' further corroborate the fact that the plaintiff is in possession of the suit property, thereby entitling him to protection against unlawful interference.

It is further asserted by Ld. Counsel for the plaintiff that the decree dated 06.09.2011 obtained by defendant no.1 was collusive and fraudulent, and neither defendant no.1 nor defendant no.2 has any right, title or interest in the suit property. Hence, the plaintiff, being in possession, is entitled to injunction.

11. Per contra, it is contended by Ld. Counsel for the defendant no.1 that the present suit is barred under Section 34 and Section 41(i) of the Specific Relief Act, 1963, as the plaintiff has omitted to claim consequential relief of declaration of title, which is necessary when ownership is in dispute.

It is asserted by Ld. Counsel for the defendant no.1 that defendant no.2 never sold the suit property to the plaintiff, and that defendant no.1 is a bona fide purchaser of the entire 1066 sq. yards of land in Khasra No.94/7/2, Village Karala, Delhi, and has been in possession thereof since purchase.

It is argued by Ld. Counsel for the defendant no.1 that the suit is hit by the ratio laid down in Anathula Sudhakar v. P. Buchi Reddy (2008) 4 SCC 594, wherein the Hon'ble Supreme Court held that when the defendant raises a plea of ownership and the plaintiff's title is under cloud, the plaintiff must necessarily seek declaration of title along with injunction, and a bare injunction suit is not maintainable.

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 9/22 NITISH KUMAR DN: c=IN, o = D E L H I D I S T R I C T C O U R T S , o u = D I S T R I C T C O U R T 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290co4 SHARMA 9f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc5 2328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:33:07 +05'30' It is contended by Ld. Counsel for the defendant no.1 that the plot measuring 155 sq. yards is a vacant plot, and injunction cannot be granted in respect of vacant land without establishing ownership. The plaintiff, having failed to seek declaration, cannot claim injunction over the said portion.

12. I have heard the final arguments advanced by ld counsel for both the parties and have perused the record.

Findings

13. It is settled principle of law that in respect of relief claimed by a plaintiff, he has to stand on his own legs by proving his case. The plaintiff has claimed the relief of declaration and injunction(s) in the present suit. Thus, it has to be seen from the evidence led by the plaintiff as to whether he has succeeded in proving his case.

14. The issue wise findings of the court are as under :

15. Issue no. 2 Whether the plaintiff is entitled for decree of declaration as prayed for? OPP The onus to prove this issue was upon the plaintiff. The plaintiff in the present case has sought two-fold declarations viz.

(a) declaring the documents dated 23.09.2010 allegedly executed by defendant no.2 in favour of defendant no.1 qua suit property as null and void and not binding upon the plaintiff.

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 10/22 NITISH KUMAR DN: c=IN, o = D E L H I D I S T R I C T C O U R T S , o u = D I S T R I C T C O U R T 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c04 SHARMA 9f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc52 328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:33:20 +05'30'

(b) declaring the judgment and decree dated 06.09.2011 in suit no. 606/2010 titled as 'Rajesh Kumar Beniwal vs Kartar Singh and Anr' not binding upon the plaintiff.

16. It is significant to note that the suit bearing CS SCJ No. 606/2010 was filed by defendant no.1 against defendant no.2 and 3 seeking a relief of permanent injunction against interference in possession of the suit property and which was decided in favour of the plaintiff and defendant no. 2 and 3 were restrained from obstructing or disturbing the peaceful possession of the defendant no.1 herein in property measuring 1066 sq yards. It is a settled proposition of law that a decree of injunction is a decree in personam and decree passed in a suit inter se between certain parties cannot bind a third party who was neither impleaded nor heard in those proceedings. Thus, no declaration is even required for the said effect.

17. As regards the documents dated 23.09.2010, allegedly executed by defendant no.2 in favour of defendant no.1 are sought to be declared as null and void, primarily on the ground that the documents executed in favour of defendant no.1 were executed later in time than the documents executed in favour of the plaintiff.

It is significant to note that the plaintiff has alleged fraud to have been committed by defendant no.2 and a criminal prosecution was launched against him. A necessary deduction being that it is not the assertion of plaintiff that the documents executed by defendant no.2 in favour of defendant no.1 were being so obtained by defendant no.1 by any fraud or misrepresentation.

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 11/22 NITISH KUMAR DN: c=IN, o = D E L H I D I S T R I C T C O U R T S , o u = D I S T R I C T C O U R T

2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c SHARMA 049f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:33:33 +05'30' 17.1 It is also evident from record that the documents sought to be declared null and void are GPA, agreement to sell, affidavit, possession letter and Will i.e. Ex DW1/1 and Ex DW1/2. 17.2 A stranger to a document can seek its declaration as null and void only if it is affected by it. As per the pleadings of the plaintiff, the plaintiff has asserted that if the said documents are left unchallenged, they would cast doubt over the title of the plaintiff with respect to the suit property. Despite such assertion, the plaintiff did not seek a relief of declaration of his title as mandated by Anathula Sudhakar (supra).

17.3 There is nothing on record or in evidence of plaintiff to show as to how the rights of plaintiff are affected by the affidavit, receipt or possession letter, however, it has been the assertion that these documents, cumulatively, are documents of sale.

General Power of Attorney

18. A power of attorney is a creation of an agency whereby the grantor authorizes the grantee to do the acts specified therein, on behalf of grantor, which when executed will be binding on the grantor as if done by him. It is revocable or terminable at any time unless it is made irrevocable in a manner known to law. A power of attorney simply authorises the grantee to do certain acts with respect to the property including if the grantor permits to do certain acts with respect to the property including an authority to sell the property.

There is no bar in law that a person cannot execute second power of attorney. It is agitated on behalf of plaintiff that GPAs in CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 12/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c SHARMA 49f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:33:44 +05'30' favour of plaintiff are irrevocable GPAs and thus GPA in favour of defendant cannot override it.

It is notable that the documents Ex PW1/3 have three GPAs allegedly executed by defendant no.2 in favour of plaintiff i.e. pertaining to property measuring 80 sq yards, 203 sq yards and 75 sq yards and GPA qua the remaining portion of the suit property is allegedly obtained through chain of documents. The concept of irrevocable GPA recognized under section 202 of Contract Act empowers the attorney only to utilize such rights which was available to the principal. Pertaining to the GPAs obtained through chain of documents, it is relevant to note that the executants of the same have claimed themselves to be owner of the property involved. However, it is settled that GPA, agreement to sell etc do not confer any valid title and thus, the executants of such GPAs did not have any perfect title and thus, could not have executed any valid GPA in favour of the plaintiff.

As regards the GPA pertaining to 80 sq yards, 203 sq yards and 75 sq yards portions of the suit property, it is pertinent that the execution of GPA qua the said portions in favour of the defendant no.1 cannot be assumed to be barred under law so as to warrant a declaration being null and void,

particularly for the reason that an agent can enjoy only those rights in the property which the principal had. Once the principal has expired and the last Will stands in the name of defendant no.1, it has to be inferred that agent was left with no interest.

Agreement to sell

19. It is no longer res-integra, that unless agreement to sell is materialised, there is no bar on the party to execute another CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 13/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c SHARMA 049f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022f c52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:33:57 +05'30' agreement to sell. Thus, the agreement to sell alleged to be executed by defendant no.2 in favour of defendant no.1 cannot be declared null and void only on the ground that it has been executed later in time. It is not disputed that agreement to sell in favour of the plaintiff has never culminated into execution of sale deed.

Will

20. As regards the Will Ex DW1/2, it is pertinent to note that Will which has been executed lastly would be deemed to be conclusive and it overrides all the Wills, if any, executed prior in time. Thus, the said document cannot be declared null and void only on the ground that it has been executed later in time.

The plaintiff has also alleged fraud stating that defendant no.2 had already executed Will in his favour, being part of customary documents for sale, and thus could not have executed Will in favour of defendant no.1. A bare perusal of Will in favour of plaintiff shows that the same is not in compliance with requirements of Succession Act, as it is only signed by one witness.

21. Thus, the relief pertaining to declaration of documents allegedly executed by defendant no.2 in favour of defendant no.1 has to be rejected.

Issue no.2 accordingly stands decided in favour of defendant no.1.

22. Issue no.1 Whether the plaintiff is entitled for decree of permanent injunction as prayed for ?
OPP CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 14/22 NITISH KUMAR DN: c = I N , o = D E L H I D I S T R I C T C O U R T S , ou = D I S T R I C T C O U R T 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c SHARMA 049f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022f c52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:34:10 +05'30'

23. The plaintiff has sought injunction to restrain the defendants from dispossessing the plaintiff from the suit property and also from creating third party interest in respect of the suit property total measuring 513 sq yards comprising in khasra no. 94/7/2 situated in village Karala area known as

Vardhman Enclave, Karala Delhi.

24. The suit property comprises of:

- (i) a contiguous built-up plot measuring 358 sq. yards (comprised of sub-plots of 80 sq. yards, 75 sq. yards and 203 sq. Yards shown as plot no. 7 and 8 in site plan) alleged to be built up, and
- (ii) a separate plot measuring 155 sq. yards, enclosed by boundary walls (shown as plot no. 10 in site plan).

25. It is pertinent to mention that the Hon'ble Supreme Court of India in Anathula Sudhakar Vs. P. Buchi Reddy (Dead) by LRs and Others (2008) 4 SCC 594 has held as follows:

"16. ...

If two persons claim to be in possession of a vacant site, one who is able to establish title thereto will be considered to be in possession, as against the person who is not able to establish title. This means that even though a suit relating to a vacant site is for a mere injunction and the issue is one of possession, it will be necessary to examine and determine the title as a prelude for deciding the de jure possession. In such a situation, where the title is clear and simple, the court may venture a decision on the issue of title, so as to decide the question of de jure possession even though the suit is for a mere injunction. But where the issue of title involves complicated or complex questions of fact and law, or where court feels that parties had not proceeded on the basis that title was at issue, CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 15/22 NITISH KUMAR DN: c=IN, o=DELHI DISTRICT C O U R T S , o u = D I S T R I C T C O U R T 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290co SHARMA 49f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc 52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:34:23 +05'30' the court should not decide the issue of title in a suit for injunction. The proper course is to relegate the plaintiff to the remedy of a full-fledged suit for declaration and consequential reliefs.

It is the case of the plaintiff that plot measuring 155 sq yards was a vacant plot being enclosed by boundary walls. The fact that the said plot is vacant is corroborated by report of local commissioner.

Thus, in order to decide as to whether the plaintiff is in possession of the part of suit property (i.e. plot of 155 sq yards) or not, the court has to examine the title of the plaintiff as a prelude for deciding the de jure possession for the said portion of the suit property.

Plot measuring 155 sq. Yard (shown as plot no. 10 in site plan).

26. The plaintiff has asserted himself to be owner of the entire suit property including the plot measuring 155 sq yards on the basis of documents Ex PW1/3 (colly). A bare perusal of these documents show that the same are notarised documents. Now, it is settled that a sale of an immoveable property can not be done without a registered sale deed. A reference in this regard can be made to Suraj Lamp & Industries (P) vs State Of Haryana & Anr 2012(1) SCC 656 wherein it was held as under:

"16. We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of 'GPA sales' or 'SA/GPA/WILL transfers' do not convey title and do not amount to transfer, nor can they be CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 16/22 NITISH KUMAR Digitally signed by NITISH KUMAR SHARMA DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT ROHINI, 2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c049f2e29 4 b 8 e 3 4 6 6 7 7 7 0 3 , postalCode = 110085 , st = Delhi , SHARMA serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc5232877 9foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:34:38 +05'30' recognized or valid mode of transfer of immoveable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They cannot be recognized as deeds of title, except to the limited extent of Section 53A of the TP Act. Such transactions cannot be relied upon or made the basis for mutations in Municipal or Revenue Records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered Assignment of Lease. It is time that an end is put to the pernicious practice of SA/GPA/WILL transactions known as GPA sales."

27. Another three judges bench of Hon'ble Supreme Court in Shiv Kumar vs Union of India (2019) 19 SCC 229 has reiterated that GPA sales are not valid. Aforesaid clearly indicates that a person cannot claim to be the owner of a property on the basis of the claim that he has purchased the property by way of customary documents such GPA, agreement to sell etc. It is also notable that recently while reiterating the aforesaid, the Hon'ble Supreme Court in Ramesh Chand v Suresh Chand 2025 INSC 1059 had observed:

"it is clear that in order to rely upon a Will, the same has to be proved in accordance with law. A Will has to be attested by two witnesses, and either of the two attesting witnesses have to be examined by the propounder of the will. In the present matter, we have carefully perused the Trial Court's judgment. There is not an iota of discussion about the validity of the Will as contemplated under Section 63 of the Succession CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 17/22 NITISH KUMAR Digitally signed by NITISH KUMAR SHARMA DN: c=IN,

o=DELHI DISTRICT COURTS, ou=DISTRICT COURT ROHINI,
2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b290c049f2e29
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79foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:34:53
+05'30' Act, 1925 and Section 68 of the Evidence Act, 1872 and yet, the validity of the
Will has been upheld."

28. In the instant case, the Wills (part of Ex PW 1/3) sought to be relied on are not duly proved though the plaintiff has examined PW-4 and PW-5 to identify signature of attesting witness. It is most crucial to note that the said Wills are not even in compliance of the Succession Act, 1925 as the same are attested by only one witness.

29. In light of above, it is clear that the plaintiff cannot claim ownership or possession over the said portion of suit property on the basis of aforesaid documents.

As the plaintiff has failed to prove his ownership over the vacant portions of the suit property, he cannot claim to be in possession of the same either and cannot seek relief of injunction against interference or creation of third party right.

Contiguous plot measuring 358 sq. yards (comprised of sub-plots of 80 sq. yards, 75 sq. yards and 203 sq. Yards shown as plot no. 7 and 8 in site plan)

30. The plaintiff has alleged that this portion of the suit property is built up and is in possession of plaintiff. Though, it is indicated in the site plan that this portion of suit property measures 358 sq yards cumulatively, the description and boundaries of sub-plots is not so indicated. Site plan Ex PW1/1 is reproduced herein for reference:

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 18/22 NITISH
KUMAR DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT COURT ROHINI,
2.5.4.20=f140210b78e40bb1aa8ea21ee4772f68400c66b2
90c049f2e294b8e346677703, postalCode=110085, SHARMA st=Delhi,
serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c0
22fc52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21
16:35:09 +05'30'

31. At this juncture, it is relevant to refer to testimony of PW-1/plaintiff. The plaintiff has relied upon documents i.e. photocopy of election ID card, driving license and electricity bills. The documents are Ex PW1/5(colly). PW-3, an official on behalf of TPDDL, also brought the account statement pertaining to electricity connection being installed in property.

A bare perusal of these documents show that all of these bear the address as F-8, Vardhman Enclave, Karala, Delhi.

31.1 Pertinently, in his cross-examination, the plaintiff /PW-1 has categorically stated that the property F-8 is situated in the 80 Sq yards plot. The relevant testimony is reproduced as under:

"I purchased the property 80 sq yards, 75 sq yards and 203 sq yards from Kartar Singh and property of 155 sq yards from Sh. Shanti Swaroop Bansal. The property F-8 is situated in above 80 sq yards property."

31.2 All the documents of the plaintiff showing his possession pertain to property F-8 only. Though, it is alleged by the plaintiff that the plaintiff is in possession of the entire plot measuring 358 sq yards, the plaintiff has failed to substantiate the same.

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 19/22 NITISH KUMAR DN: c=IN, o = D E L H I D I S T R I C T C O U R T S , o u = D I S T R I C T C O U R T 2.5.4.20=f14021ob78e40bb1aa8ea21ee4772f68400c66b290c SHARMA 049f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022f c52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:35:25 +05'30' Ld counsel for plaintiff has submitted that plot measuring 358 sq. yards is shown in the LC report as built up upto single storey. However, it is notable that the same is not so supported by the photographs annexed with the report as per which only some portion in the said plot is built up and the remaining is lying vacant. The rough sketch filed with the report also mentions that only some part is built up upto ground floor.

The report of local commissioner is not conclusive as to who is in possession of this entire portion of 358 sq yards as the report only mentions that the plaintiff alleged that he is in possession of the same.

The plaintiff could show his possession in only a part of portion of property i.e. a portion in 80 sq yards plot by producing identity documents and electricity bill. Though, it is also interesting to note that at present there is no electricity connection in the said portion as well.

32. Now, as regards the possession of plaintiff in portion of plot in 80 sq yards, it is material to note that though the plaintiff has established that he is in possession of some portion of the property which is F-8 and which allegedly is part of plot in 80 sq yards (as shown in plot no.8 in site plan), the plaintiff has failed to prove as to what is the exact location of this portion i.e. F-8 in which he is in possession. The site-plan annexed nowhere shows as to where the sub-plot measuring 80 sq yards, is exactly located. Upon a careful scrutiny of the site plan placed on record by plaintiff, it becomes evident that the document reflects a lack of diligence in its preparation.

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 20/22 NITISH KUMAR DN: c=IN, o = D E L H I D I S T R I C T C O U R T S , o u = D I S T R I C T C O U R T 2.5.4.20=f14021ob78e40bb1aa8ea21ee4772f68400c66b290co SHARMA 49f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc5 2328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:35:41 +05'30' It is significant to note that the site plan shows plot No.7 & 8 as a contiguous plot measuring 358 sqyds

i.e. sub-plots of 75 sqyds, 80 sqyds & 203 sqyds. The documents pertaining to plot measuring 203 sqyds i.e. part of Ex.PW-1/3 shows that the said plot of 203 sqyds exists in portion of plot no.8 & 9. The site plan on the other hand shows plot no.9 as measuring 275 sqyds and in possession of one Sh. Sushil Kumar Sharma. Thus, there is no proper description of the suit property either.

33. It is pertinent to note that Order VII Rule 3 CPC provides that in a suit where the subject matter is an immovable property, the plaintiff shall contain the description of the property so that the suit property may easily be identified. The said rule lays down a duty upon the plaintiff to correctly identify the immovable suit property. Not only this, but Order XX Rule 9 CPC also mandates that the plaintiff must provide a clear and complete description of the property which forms the subject matter of the suit.

In the judgment titled as Nahar Singh vs Harnak Singh and Ors., (1996) 6 SCC 699, the Hon'ble Supreme Court has held that unless the property in question for which the relief has been sought for is identifiable, no decree can be granted in respect of the same.

34. In view of the aforesaid discussion, issue no.1 is decided against the plaintiff.

CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 21/22 NITISH KUMAR DN: c=IN, o = D E L H I D I S T R I C T C O U R T S , ou = D I S T R I C T C O U R T 2.5.4.20=f14021ob78e40bb1aa8ea21ee4772f68400c6b290co SHARMA 49f2e294b8e346677703, postalCode=110085, st=Delhi, serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc 52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:35:59 +05'30' Conclusion

35. In view of the foregoing discussion and findings on issues No.1 and 2, it is held that the plaintiff has failed to establish ownership or lawful possession over the suit property and consequently, the plaintiff is not entitled to the reliefs claimed. The suit is hereby dismissed.

36. Decree sheet be prepared accordingly.

File be consigned to Record Room after due compliance.

Announced in the open court DN: c=IN, o=DELHI DISTRICT COURTS, ou=DISTRICT NITISH KUMAR COURT ROHINI, 2.5.4.20=f14021ob78e40bb1aa8ea21ee4772f68400c6b290co49f2e294b8e346677703, SHARMA postalCode=110085, st=Delhi, on 21.02.2026 serialNumber=edd79eb8c3ca6eba5b8135f3d7b500813c022fc52328779foacd27ef765e32ba, cn=NITISH KUMAR SHARMA Date: 2026.02.21 16:36:20 +05'30' (Nitish Kumar Sharma) JSCC/ASCJ/GUDN. JUDGE North Rohini, Courts, Delhi/21.02.2026 CS SCJ 35114/16 Hari Ram vs Rajesh Kumar Beniwal and Ors 22/22