

**IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF  
TELANGANA**

\*\*\*\*\*

**CIVIL MISCELLANEOUS APPEAL NO.519 of 2021**

Between:

Sri Ramesh Gaikwad, s/o. Hanmanth Rao,  
Aged 50 years, occu: Business, r/o.8-4-549/38/1,  
Nethaji Nagar, A.G.Colony, Erragadda,  
Sanathnagar, Hyderabad and others.

.... Appellants/  
Respondent Nos.5, 7, 8, 9/  
Defendant Nos.5,7, 8,9

And

Smt. Lalitha Srikrish w/o. late Srikrish Srinivasan,  
Aged 60 years, occu: Business, r/o.12710,  
Blomfield Ave. Apartments, 153, Norwalk,  
CA, 90650 and others.

..... Respondents/  
petitioners/plaintiffs

Sri G.V.Gyaneshwar Naidu s/o. G.P.R.naidu,  
Aged 55 years, occu: Business, r/o.Plot No.103,  
MLA MP Colony, Road No.10C, Shaikpet,  
Hyderabad and others.

.... Respondents/  
respondents/defendants

DATE OF JUDGMENT PRONOUNCED : 27.01.2022

**HONOURABLE SRI JUSTICE P.NAVEEN RAO  
AND  
HONOURABLE Dr. JUSTICE G.RADHA RANI**

1. Whether Reporters of Local Newspapers : No  
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : **Yes**  
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : No  
see the fair copy of the Judgment ?

**\*HONOURABLE SRI JUSTICE P.NAVEEN RAO  
AND  
HONOURABLE Dr. JUSTICE G.RADHA RANI**

**+ CIVIL MISCELLANEOUS APPEAL NO.519 of 2021**

% 27.01.2022

# Sri Ramesh Gaikwad, s/o. Hanmanth Rao,  
Aged 50 years, occu: Business, r/o.8-4-549/38/1,  
Nethaji Nagar, A.G.Colony, Erragadda,  
Sanathnagar, Hyderabad and others.

.... Appellants/  
Respondent Nos.5, 7, 8, 9/  
Defendant Nos.5,7, 8,9

Vs.

\$ Smt. Lalitha Srikrish w/o. late Srikrish Srinivasan,  
Aged 60 years, occu: Business, r/o.12710,  
Blomfield Ave. Apartments, 153, Norwalk,  
CA, 90650 and others.

..... Respondents/  
petitioners/plaintiffs

Sri G.V.Gyaneshwar Naidu s/o. G.P.R.naidu,  
Aged 55 years, occu: Business, r/o.Plot No.103,  
MLA MP Colony, Road No.10C, Shaikpet,  
Hyderabad and others.

.... Respondents/  
respondents/defendants

!Counsel for the appellants : Mr. K.Mohan

Counsel for the Respondents: M.Surender Rao, learned senior  
counsel appearing for Sri  
Ch.A.B.Satyanarayana, leaned  
counsel for respondents 1 to 6.

<Gist :

>Head Note:

? Cases referred:

1995 (5) SCC 545  
2003 (4) SCC 161  
2008 (8) SCC 564  
(2010) 5 SCC 401  
(2018) 7 SCC 639

**HONOURABLE SRI JUSTICE P.NAVEEN RAO  
AND  
HONOURABLE Dr. JUSTICE G.RADHA RANI  
CIVIL MISCELLANEOUS APPEAL NO.519 of 2021**

**JUDGMENT:** *(Per Hon'ble Sri Justice P.Naveen Rao)*

Heard Sri K.Mohan, learned counsel for appellants and Sri M.Surender Rao, learned senior counsel appearing for Sri Ch.A.B.Satyanarayana, learned counsel for respondents 1 to 4 and 6. The parties are hereinafter referred to as arrayed before the trial Court.

2. The order against which this appeal is filed chronicled the facts as asserted by the parties to litigation. Therefore, for brevity, this Court is not recording all those details. Suffice to note that the suit schedule plots form part of a composite land of Acs.10.39 guntas in Sy.Nos.137, 140 and 150 of Yapral, Medchal-Malkajgiri District. The plaintiffs 1 to 4 claim to have succeeded to original owners and the 5<sup>th</sup> petitioner purchased a part of the composite block. They claim to have entered into agreement with plaintiff No.6 to develop the suit schedule land. The plaintiffs claim to have obtained orders of approval of layout from HMDA and building permissions from GHMC. The suit "A to C" schedule plots are plot Nos.58 to 63, 82 and 87 to 91 in a layout named as 'Krish Enclave' forming part of layout developed in the composite land.

3. The plaintiff instituted O.S.No.13 of 2021 in the Court of XVI Additional District and Sessions Judge, Ranga Reddy district at L.B.Nagar praying to grant decree declaring that the plaintiffs 1 to 5 are joint absolute owners and possessors of the suit schedule property; that the documents listed in prayer (b) are null and void and not binding on plaintiffs; and to grant decree of perpetual

injunction restraining defendants and all persons claiming through them from interfering with lawful possession over the suit schedule property.

4. In the said suit the plaintiffs filed I.A.No.59 of 2021 under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, 'CPC') praying to grant temporary injunction restraining respondents from interfering with the possession of the petitioners over the petition schedule "A to C" properties. By order dated 14.9.2021 the I.A. was allowed granting temporary injunction as prayed. This appeal is against the said order.

5. At this stage, it is also necessary to chronicle the litigation history leading to the order under Appeal:

(1) A Vacation Judge of this High Court allowed the Receive and Transmit Petition No.5 of 2021 and while doing so, the learned single Judge also granted an *ex parte ad interim injunction* in favour of plaintiffs in I.A.No.1 of 2021;

(2) This was challenged in C.M.A.No.90 of 2021 before this Court. On 22.02.2021 in I.A.No.1 of 2021 in C.M.A.No.90 of 2021, the said order dt.12.01.2021 in I.A.No.1 of 2021 was suspended;

(3) This order was questioned in S.L.P.No.3825 of 2021 by the plaintiffs. The Hon'ble Supreme Court on 08.03.2021 stayed the order of this Court for six (06) weeks and directed this Court to decide the CMA on merits within four (04) weeks;

(4) By order dated 17.04.2021, the CMA was allowed holding that no reasons were assigned while granting the *exparte*

*ad-interim injunction* and remanded the matter to the Trial Court for fresh adjudication of the interim injunction application (which had been numbered by the Court below as I.A.No.59 of 2021);

(5) This order was questioned by the plaintiffs in S.L.P.No.6162 of 2021. On 19.04.2021, the Supreme Court passed an order of *status quo* till the Trial Court decides the I.A.No.59 of 2021;

(6) On 25.05.2021, the Supreme Court directed that till the order is passed by the Trial Court, *status quo* should be maintained by the parties;

(7) On remand, the Trial Court passed orders on 01.06.2021 as prayed by the plaintiffs/petitioners, granting temporary injunction restraining the respondents therein from interfering with peaceful possession and enjoyment of plaintiffs;

(8) On 01.07.2021, the SLP was dismissed as infructuous;

(9.1) Aggrieved thereby, C.M.A.No.314 of 2021 was filed. This Court considered elaborately the precedent litigation and the view taken by the Trial Court in granting injunction. This Court noticed that while plaintiffs contended that on 21.04.2000 and 23.04.2000 unregistered sale deeds were executed and validated on 04.08.2007 and 21.08.2007 by paying the deficit stamp duty before the District Registrar, Ranga Reddy District, defendants asserted that on those dates late Sri T.R.Srinivasan and Smt. Lalitha Srikrish were not in India and, therefore, question of executing unregistered sale deeds on the said dates did not arise

and they were fabricated documents to knock away the suit schedule property. This Court noticed that neither the certified copies of passports of Sri T.R.Srinivasan and Smt. Lalitha Srikrish, nor the certified copies of unregistered sale deeds which were validated were marked in evidence. The Division Bench observed that if these two sets of documents were marked respectively, the Trial Court could have been in a better position to appreciate the issue and come to a correct conclusion. The Division Bench also observed that whether an unregistered sale deed can be considered for collateral purpose, of possession of the suit schedule properties, is an important issue that requires consideration having regard to the settled principle of law, but was not considered by the Trial Court;

(9.2) Observing so and holding that these aspects require consideration by the Trial Court, this Court sets aside the order of the Trial Court and remanded the matter to the Trial Court to consider the aspect of possession of the plaintiffs on the date of filing of the suit, by granting liberty to the plaintiffs to file certified copies or originals of the passports of late T.R.Srinivasan and Smt. Lalitha Srikrish and to the defendants to file the certified copies/originals of the unregistered sale deeds dated 21.04.2000 and 23.04.2000. The Division Bench also cautioned the Trial Court to keep in mind the principles governing grant of temporary injunction pending suit as laid down by the Hon'ble Supreme Court in **Gujarat Bottling Co. Ltd. And Others Vs. Coca Cola Co. And Others<sup>1</sup>**;

---

<sup>1</sup> 1995 (5) SCC 545

(10) Aggrieved by the above decision of this Court, S.L.P.Nos.13051 and 13272 of 2021 were preferred. The Hon'ble Supreme Court dismissed the said SLPs by order dated 31.08.2021. The Hon'ble Supreme Court refrained from entering into merits of the contentions urged on behalf of the petitioners therein and directed the Trial Court to dispose of the interlocutory application within a period of two (2) weeks without being influenced by the observations made by the High Court. The Hon'ble Supreme Court also made it clear that no opinion was expressed on merits and the parties were at liberty to raise all the contentions; and

(11) On remand, in addition to the documents already marked, on behalf of plaintiffs, the passports and immigration certificates of Smt. Lalitha Srikrish and Sri T.R.Srinivasan were marked as Ex.P-38 and Ex.P-39 respectively. On behalf of respondents, the unregistered sale deeds dated 21.04.2000 and 23.04.2000 and validation of unregistered sale deeds on 04.08.2007 and on 21.08.2007 were marked as Ex.R-17 to Ex.R-26, before the Trial Court. On elaborate consideration of the matter, the trial Court having held that plaintiffs have made out *prima facie* case and holding that balance of convenience is in their favour granted interim injunction restraining the defendants from interference. The respondents did not deny the title of Sri T.R.Srinivasan and Smt. Lalitha Srikrish on part of land in composite land of Acs.10.39 guntas, forming part of Sy.Nos.137, 140 and 150 of Yapral, Medchal-Malkajgiri District. While petitioners claimed as owners and in possession of their share in the said composite land based on the ownership claim of late

T.R.Srinivasan and Smt. Lalitha Srikrish and claim possession continuously all along, the 1<sup>st</sup> respondent set up his claim of possession by referring to recitals in unregistered sale deeds dated 21.04.2000 and 23.04.2000 and validated on 04.08.2007 and on 21.08.2007. The 1<sup>st</sup> respondent in turn executed registered sale deeds on various parcels of land to other respondents who in turn claimed ownership and possession by virtue of the recitals in the said sale deeds.

6. The issue for consideration is, whether the unregistered sale deeds dated 21.04.2000 and 23.04.2000 can be relied upon by the appellants herein for collateral purpose i.e., to establish possession of the suit schedule land ?

7. The title to the suit schedule properties in favour of the plaintiffs is not in dispute. The 1<sup>st</sup> respondent placed reliance on the unregistered sale deeds dated 21.04.2000 and 23.04.2000, later validated on 04.08.2007 and 21.08.2007, to claim the possession. While it is urged that by virtue of executing the unregistered sale deeds by Sri T.R.Srinivasan and Smt. Lalitha Srikrish, the plaintiffs deny said transactions by contending that on the dates of alleged execution, late Sri T.R.Srinivasan and Smt. Lalitha Srikrish were not in India, and that they were sham transactions. It is urged that when those transactions were not validly made, the question of reliance on those transactions does not arise.

8. These are the issues which require deeper consideration after leading evidence by the parties to the suit. Thus, the only issue we are inclined to consider at this stage is whether the Trial



Court erred in not considering the clause incorporated in the unregistered sale deeds dated 21.04.2000 and 23.04.2000, handing over possession to the respondents to be relied upon for collateral purpose having regard to the proviso in Section 49 of the Indian Registration Act.

9. According to Section 49<sup>2</sup> of the Indian Registration Act, 1908, a document which is compulsorily registerable is not admissible in evidence. Proviso appended to this Section carves out an exception. It contemplates that an unregistered document can be looked into for collateral purpose.

10. In **Bondar Singh and Others Vs. Nihal Singh and Others**<sup>3</sup>, suit was instituted praying to grant declaration that plaintiffs had become owners of the suit lands by adverse possession and also sought for injunction to restrain the defendants from interfering with the possession of plaintiffs on the suit lands. The claim of possession is traceable to an unregistered sale deed dated 09.05.1931. The Hon'ble Supreme Court considered the issue whether the unregistered sale deed can be looked in to assess the possession claim. On thoroughly analyzing the evidence on record, the Hon'ble Supreme Court observed that:

“5. .... in the present case, even though not admissible in evidence, can be looked into for collateral purposes. In the present case the collateral purpose to be seen is the nature of possession of the plaintiffs over the suit land. The sale deed in question at least shows that initial possession of the plaintiffs over the suit land was not illegal or unauthorized....”.

---

<sup>2</sup> **Section 49. Effect of non-registration of documents required to be registered.—**

No document required by section 17 1[or by any provision of the Transfer of Property Act, 1882 (4 of 1882)], to be registered shall—

- (a) affect any immovable property comprised therein, or
- (b) confer any power to adopt, or
- (c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered:

Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 (4 of 1882), to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877 (3 of 1877) or as evidence of any collateral transaction not required to be effected by registered instrument.

<sup>3</sup> 2003 (4) SCC 161

10.1. The Hon'ble Supreme Court noted that during the lifetime of Fakir Chand, the title or possession of plaintiffs was never disputed and that other reliable evidence including the previous litigation and conduct of defendants established that plaintiffs were in continuous possession. From the judgment it appears that the Hon'ble Supreme Court considered the issue on merits though in paragraph No.5, the Hon'ble Supreme Court referred to the statement of law on consideration of terms of agreement of unregistered sale deed for the purpose of issue of possession as a collateral purpose.

11. In **K.B.Saha and Sons Private Limited Vs. Development Consultant Limited<sup>4</sup>**, the issue was whether terms of unregistered lease agreement can be looked into for determining the question whether the tenancy was granted only for occupation of the named officer of the respondent. The Hon'ble Supreme Court dwelt into scope of Section 49 of the Act 1908 in detail and reviewed the law on the subject. In paragraph-34, the Hon'ble Supreme Court delineated the principles laid down in the precedent decisions. It reads as under:

"34. From the principles laid down in the various decisions of this Court and the High Courts, as referred to hereinabove, it is evident that:

1. A document required to be registered, if unregistered is not admissible into evidence under Section 49 of the Registration Act.

2. Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act.

**3. A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration.**

**4. A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction**

---

<sup>4</sup> 2008 (8) SCC 564

**creating, etc. any right, title or interest in immovable property of the value of one hundred rupees and upwards.**

**5. If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose.”** (Emphasis supplied)

11.1. In paragraph No.35, the Hon’ble Supreme Court opined that particular clause in the lease agreement cannot be looked into even for collateral purpose,

“35. In our view, the particular clause in the lease agreement in question cannot be called a collateral purpose. As noted earlier, it is the case of the appellant that the suit premises were let out only for the particular named officer of the respondent and accordingly, after the same was vacated by the said officer, the respondent was not entitled to allot it to any other employee and was therefore, liable to be evicted which, in our view, was an important term forming part of the lease agreement. **Therefore, such a clause, namely, Clause 9 of the lease agreement in this case, cannot be looked into even for collateral purposes to come to a conclusion that the respondent was liable to be evicted because of violation of Clause 9 of the lease agreement. That being the position, we are unable to hold that Clause 9 of the lease agreement, which is admittedly unregistered, can be looked into for the purpose of evicting the respondent from the suit premises only because the respondent was not entitled to induct any other person other than the named officer in the same.**” (emphasis supplied)

11.2. From the principles culled out by Hon’ble Supreme Court and the view expressed in paragraph No.35, it is apparent that collateral transactions must be **independent** of **or divisible** from the transactions which require registration.

12. In **S.Kaladevi Vs. V.R.Somasundaram and Others**<sup>5</sup>, plaintiffs claimed there was an oral agreement of sale to sell the suit property for consideration and the same would be executed and registered on the same day. Accordingly, the stamp papers were purchased, entire sale consideration was paid to the defendant and plaintiff was put in possession of the suit property and a sale deed in favour of plaintiff was also executed. However, on the same day, when the document was presented for registration, the Sub-Registrar refused to register the document.

---

<sup>5</sup> (2010) 5 SCC 401

In the facts of the case, the Hon'ble Supreme Court observed that when an unregistered sale deed is tendered in evidence as a proof of oral agreement of sale, it can be received in evidence only for that purpose. Paragraph No.12 of the judgment reads as under:

"12. The main provision in Section 49 provides that any document which is required to be registered, if not registered, shall not affect any immovable property comprised therein nor such document shall be received as evidence of any transaction affecting such property. The proviso, however, would show that an unregistered document affecting immovable property and required by the 1908 Act or the Transfer of Property Act, 1882 to be registered may be received as an evidence to the contract in a suit for specific performance or as evidence of any collateral transaction not required to be effected by registered instrument. By virtue of the proviso, therefore, an unregistered sale deed of an immovable property of the value of Rs 100 and more could be admitted in evidence as evidence of a contract in a suit for specific performance of the contract. Such an unregistered sale deed can also be admitted in evidence as an evidence of any collateral transaction not required to be effected by registered document. ***When an unregistered sale deed is tendered in evidence, not as evidence of a completed sale, but as proof of an oral agreement of sale, the deed can be received in evidence making an endorsement that it is received only as evidence of an oral agreement of sale under the proviso to Section 49 of the 1908 Act.***" (Emphasis supplied)

12.1. In continuation to the principles delineated in **K.B.Saha** (supra), the Hon'ble Supreme Court added one more principle. Paragraph No.13 reads as under:

"13. Recently, in *K.B. Saha and Sons (P) Ltd. v. Development Consultant Ltd.* [(2008) 8 SCC 564] this Court noticed (SCC pp. 576-77, para 33) the following statement of Mulla in his *Indian Registration Act* (7th Edn., at p. 189):

xxxx

To the aforesaid principles, one more principle may be added, namely, that a document required to be registered, if unregistered, can be admitted in evidence as evidence of a contract in a suit for specific performance.

13. In **Ameer Minhaj Vs. dierdre Elizabeth (Wright) Issar**<sup>6</sup>, the core issue considered by the Hon'ble Supreme Court was whether the agreement dated 09.07.2003, on the basis of which relief for specific performance was claimed, could be received in evidence as it was not a registered document. The Hon'ble Supreme Court elaborately considered the provisions of Sections 17 and 49 of the

---

<sup>6</sup> (2018) 7 SCC 639

Act 1908, noticed the principles delineated in **K.B.Saha** (supra) and **S.Kaladevi** (supra). Paragraph No.12 reads as under:

**“12.** In the reported decision, this Court has adverted to the principles delineated in *K.B. Saha & Sons (P) Ltd. v. Development Consultant Ltd.* [*K.B. Saha & Sons (P) Ltd. v. Development Consultant Ltd.*, (2008) 8 SCC 564] and has added one more principle thereto that a document is required to be registered, but if unregistered, can still be admitted as evidence of a contract in a suit for specific performance. In view of this exposition, the conclusion recorded by the High Court in the impugned judgment [*Dierdre Elizabeth (Wright) Issar v. Ameer Minhaj*, 2016 SCC OnLine Mad 31541] that the sale agreement dated 9-7-2003 is inadmissible in evidence, will have to be understood to mean that the document though exhibited, will bear an endorsement that it is admissible only as evidence of the agreement to sell under the proviso to Section 49 of the 1908 Act and shall not have any effect for the purposes of Section 53-A of the 1882 Act. In that, **it is received as evidence of a contract in a suit for specific performance and nothing more.** The genuineness, validity and binding nature of the document or the fact that it is hit by the provisions of the 1882 Act or the 1899 Act, as the case may be, will have to be adjudicated at the appropriate stage as noted by the trial court after the parties adduce oral and documentary evidence.” (Emphasis supplied)

14. What is a ‘**collateral purpose**’ in a given case requires consideration. It is clear from judgments in **Kaladevi** and in **Ameer Minhaj**, the Hon’ble Supreme Court emphasized that an unregistered agreement of sale when tendered in evidence in a suit for specific performance, can be received in evidence as a proof of oral agreement of sale and nothing more.

15. Having regard to the principles delineated in the above decisions with reference to admissibility of an unregistered sale deed, it is necessary to consider the issue in this case. In the instant case, defendants seek to rely on clauses in the so-called unregistered sale deeds dated 21.04.2000 and 23.04.2000 to claim vesting possession initially to first defendant and later to other defendants. On vesting possession relevant clause in the sale deeds is same. For example, relevant clause in page-3 of the sale deed dated 23.04.2000 reads as under:

“THAT the vendors have delivered the vacant and the peaceful possession of the schedule mentioned property to the vendee as

on this day of sale deed”. Similar clause is incorporated in the sale deed dated 21.04.2000.”

16. Two aspects require to be noted. Firstly, there is serious contest on genuiness of those documents on the ground that the days on which alleged execution was made owners were not in India and are therefore sham transactions. To support this plea they have marked the passport and visa copies of both persons as Exs.P38 and P39. It is for the defendants to dispel this assertion of plaintiffs during the course of trial. Secondly, they assert that they are in continuous possession.

17. According to the plaintiffs, they paid the building permission fee and obtained construction permissions from the GHMC on 29.11.2020. They have also obtained electricity connections with separate meters on each of the plots from TS-TRANSCO. The documents in proof of payment of the building permission fee, the permissions obtained and electricity connections were filed in the suit. They alleged that when they were cleaning up the property for the purpose of measurements, the representatives of the respondents falsely claiming to be the owners based on the fraudulent documents interfered with the activity compelling the plaintiffs to lodge a complaint in the Office of the Commissioner of Police, Rachakonda on 14.12.2020.

18. They also asserted that respondent no.1 filed several suits for specific performance by relying on unregistered sale deeds, but all the suits were dismissed. The case numbers and the dates of dismissal of the cases were also mentioned in the plaint. It is further asserted that 9<sup>th</sup> respondent filed O.S.No.600 of 2018 in

the Court of Junior Civil Judge at Malkajgiri praying to grant decree of perpetual injunction against plaintiff no.1 and the mother of plaintiff no.4, but the said suit was also dismissed. Plaintiffs assert that they have been in continuous possession and enjoyment of the suit schedule property.

19. The defendants do not deny the fact of institution and dismissal of suits for specific performance filed by the 1<sup>st</sup> defendant and dismissal of O.S.No.600 of 2018 filed by the 9<sup>th</sup> defendant to grant perpetual injunction which is part of the suit schedule property though contend that Appeal Suit is pending in this Court. The plaintiffs rely on their claim of possession based on the alleged unregistered sale deeds stated to have been executed on 21.04.2000 and 23.04.2000. Except this assertion and Encumbrance Certificates for the period from 2016 to 2021 reflecting subsequent sale transactions no evidence is lead to justify their claim of possession.

20. As held by the Hon'ble Supreme Court in the decisions referred to above, a clause in the agreement of sale, which is compulsorily registerable, but not registered, is not independent of or divisible from the transaction in issue i.e., sale of suit schedule land. No clause of a document inadmissible in evidence for want of registration can be relied for any purpose including possession. Further, issue of possession cannot be said as collateral purpose by relying on unregistered sale deeds. Such document can be received as evidence in a suit for specific performance as proof of agreement of sale and only for that purpose and for no other purpose.

21. At this stage, we are reminded of the opinion expressed by the Hon'ble Supreme Court in **Maria Margarida Sequeira Fernandes v. Erasmo Jack de Sequeira**<sup>7</sup>. Hon'ble Supreme Court held,

"68. .... Once the title is prima facie established, it is for the person who is resisting the title-holder's claim to possession to plead with sufficient particularity on the basis of his claim to remain in possession and place before the court all such documents as in the ordinary course of human affairs are expected to be there. ...."

22. In **Suraj Lamp & Industries (P) Ltd. (2) through Director v. State of Haryana and another**<sup>8</sup>, Hon'ble Supreme Court held,

"18. It is thus clear that a transfer of immovable property by way of sale can only be by a deed of conveyance (sale deed). In the absence of a deed of conveyance (duly stamped and registered as required by law), no right, title or interest in an immovable property can be transferred.

19. Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of Sections 54 and 55 of the TP Act and will not confer any title nor transfer any interest in an immovable property (except to the limited right granted under Section 53-A of the TP Act). According to the TP Act, an agreement of sale, whether with possession or without possession, is not a conveyance. Section 54 of the TP Act enacts that sale of immovable property can be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject-matter."

23. In the absence of any other material to support the claim of possession by the defendants, we do not see any error in the decision arrived at by the trial Court in accepting the plea of plaintiffs on possession and granting injunction. The reasons assigned by the trial Court to reject the contention of possession based on a clause in the unregistered sale deed, which cannot be treated as independent of the main transaction or divisible from main transaction, commands acceptance.

---

<sup>7</sup> (2012) 5 SCC 370

<sup>8</sup> (2012) 1 SCC 656



24. For the aforesaid reasons, Civil Miscellaneous Appeal is dismissed. It is made clear that there is no expression of opinion on merits. Issues considered herein are only for the purpose of considering this appeal against interlocutory order of trial Court. All issues are left open to be urged by the parties in the trial Court. Pending miscellaneous petitions if any shall stand closed.

---

**JUSTICE P.NAVEEN RAO**

---

**JUSTICE G RADHA RANI**

Date: 27.01.2022  
PT/KKM

**HONOURABLE SRI JUSTICE P.NAVEEN RAO  
AND  
HONOURABLE Dr. JUSTICE G.RADHA RANI**

**CIVIL MISCELLANEOUS APPEAL NO.519 of 2021**

**Date: 27.01.2022**

*PT/KKM*