

HIGH COURT OF ANDHRA PRADESH

* * * *

FIRST APPEAL No. 609 of 2011

Between:

Matam Ashok Kumar and another

....APPELLANTS

AND

State of A.P. Rep. by its District Collector,
Kurnool and another

.....RESPONDENTS

DATE OF JUDGMENT RESERVED : **12.08.2025**

DATE OF JUDGMENT PRONOUNCED: **07.01.2026**

DATE OF JUDGMENT UPLOADED : **07.01.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
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.....RESPONDENTS

! Counsel for the Appellants : Sri P. Veera Reddy, Senior Counsel
Assisted by Sri Krishnavamsi
Representing Ms. Sodum Anvesha

Counsel for Respondent No.1 : Sri Kata Sambasiva Rao, AGP

Counsel for Respondent No.2 : No representation

< Gist :

> Head Note:

? Cases Referred:

1. (2003) 3 SCC 472
2. (2014) 2 SCC 269
3. (2019) 6 SCC 82
4. (2020) 19 SCC 57
5. (2013) 9 SCC 319
6. 2025 SCC OnLine SC 630
7. (1995) 3 SCC 426
8. (2007) 6 SCC 186

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BL SRI JUSTICE MAHESWARA RAO KUNCHEAM**

FIRST APPEAL No. 609 of 2011

JUDGMENT: (per Hon'ble Sri Justice Ravi Nath Tilhari)

Heard Sri P. Veera Reddy, learned Senior Counsel, assisted by Sri Krishnavamsi, learned counsel, representing Ms. Sodum Anvesha, learned counsel for the appellants and Sri Kata Sambasiva Rao, learned Assistant Government Pleader appearing for the 1st respondent.

2. No representation for the 2nd respondent.

3. This Appeal has been filed by the appellants/plaintiffs in O.S.No.6 of 2004 being aggrieved from the judgment and decree dated 28.07.2011 passed by the III Additional District Judge, Kurnool at Nandyal. The suit was filed against the defendants/respondents 1 and 2 for declaration of title and for permanent injunction in respect of the plaint schedule properties i.e., an extent of 7.60 cents in Sy.No.248; extent of Ac.0.92 cents; and extent of Ac.5.15 cents in Sy.No.691 of Aamuru village, Rudravaram Mandal and an extent of Ac.4.57 cents in Sy.No.316 of Narasapuram village, Rudravaram Mandal.

I. Facts:

i) Plaintiffs' case:

4. The plaintiffs/appellants filed the suit with the averments that they are the brothers, living jointly and their father became mentally unsound about 12 years back and disappeared and his whereabouts were not known. So, he was presumed to be dead. The grandfather of the plaintiffs was one Matam

Seshaiah and his father (the grandfather of the plaintiffs) was one Matam Ayyanna. His father was Matam Veera Brahman Swamy. So, the case set up was that the family name of the plaintiffs was 'Matam' and their ancestor was Matam Veera Brahman Swamy. The plaint schedule property was said to be the family properties of the plaintiffs being their ancestral property. They pleaded to be in possession and enjoyment of the same absolutely and independently and also paying cists till it was abolished. The plaintiffs after they grew up and after the death of their father, developed the land and had been cultivating by employing the modern tools, irrigating the land with bore-well water. Item-1 and 2 of the plaint schedule properties constituted one field, in which the plaintiffs' father dug one bore-well during his lifetime. The plaintiffs also dug two more bore-wells in the said land. In item No.3, the plaintiffs dug two more bore-wells and in all the three items, the plaintiffs were doing intensive cultivation and raising two crops in a year. In item No.4 there was no bore-well and only dried crops were raised. The 1st plaintiff, in addition, was also carrying a Xerox Centre in Cuddapah and the 2nd plaintiff was then doing MCA course at Tirupati, and their cousin brother, namely, K. Munnaiah was said to be helping the plaintiffs and supervising the cultivation. They also raised crops by pledging the original documents with Syndicate Bank, Alamur. The Mandal Revenue Officer, Rudravaram issued pattadar passbooks. The Revenue Divisional Officer, Nandyal and Mandal Revenue Officer, Rudravaram issued title deeds for the plaint schedule land in favour of the plaintiffs and

those title deeds were pledged with the Syndicate Bank, Alamur for raising crop loan.

5. The plaintiffs further pleaded that the original pattadar passbooks were taken by the Revenue Inspector Mallikarjun at the instance of the Mandal Revenue Officer, Rudravaram on 30.08.2004 and receipt with the seal of the Mandal Revenue Officer for taking possession of two pattadar passbooks for item Nos.1 to 3 of the plaint schedule property was issued which was filed with the plaint. The circumstances under which the Revenue Inspector seized those pattadar passbooks were published in Andhra Jyothi, Daily Supplement news paper dated 04.09.2004. Some of the cist receipts available with the plaintiffs for payment of cists by their predecessors in title were also filed. It was alleged that the defendants were trying to interfere with the peaceful possession and enjoyment of the plaint schedule property, and so, there was necessity to file the suit.

ii) Defendants' case:

6. The 1st defendant/respondent i.e., State of Andhra Pradesh, represented by the District Collector, Kurnool remained *ex parte*. No written statement was filed.

7. The 2nd defendant in the suit/Respondent No.2, namely, Veera Brahman Matam, represented by its Manager and Successors-in-Office, Cuddapah District, Brahmanmari Matam, filed written statement. The main pleadings of the plaint were denied. It was submitted that the predecessors of the plaintiffs were being called as 'Matam' people since they were associated

with the service to Sri Pothuluri Veera Brahmendra Swamy Mutt at Kandimallayapalli, popularly known as Sri Brahmamgari Matam. It was pleaded that the 2nd defendant alone got right and title over the plaint schedule properties. The plaintiffs or their ancestors had no right and title over the plaint schedule properties. The plaintiffs were not the actual cultivators of the plaint schedule properties and they were engaged in other avocations. The plaintiffs were not the residents of either Alamur or Narasapuram villages and they were living at Kadapa and Tirupathi. The documents filed by the plaintiffs were the created documents and the 2nd defendant was the absolute owner and possessor of the plaint schedule property, which was a famous religious institution having lakhs of devotees all over the State of Andhra Pradesh. The suit was said to be not maintainable.

iii) Issues:

8. In view of the pleadings, the following issues were framed by the learned trial Court.

- 1) “Whether the plaintiffs are entitled for declaration of title in respect of the suit schedule properties?
- 2) Whether the plaintiffs are entitled for consequential relief of perpetual injunction?
- 3) Whether the civil court has no jurisdiction to entertain the suit?
- 4) To what relief the plaintiffs are entitled?”

iv) Evidences:

9. On behalf of the plaintiffs, PWs 1 to 4, viz., PW 1-Matam Ashok Kumar, PW 2-B. Ratnamaiah, Asst. Manager, Syndicate Bank, Alamur, PW 3-Kambam Lakshmi Munaiah and PW 4- B. Syed Sharif, were examined and Exs.A1 to A33,

viz., Exs.A1 to A28 – Cist receipts, Ex.A29-Pattadar Passbook of 1st plaintiff, Ex.A30-Receipt issued by Mandal Revenue Officer, Ex.A31-Pattadar passbook of 1st plaintiff, Ex.A32-Pattadar passbook of 2nd plaintiff, Ex.A33-Newspaper cutting; and Exs.X1 to X9, viz., Ex.X1-Attested copy of crop loan application of first plaintiff, Ex.X2-Attested copy of crop loan application of 2nd plaintiff, Ex.X3-Attested copy of simple mortgage loan application of PW 1, Ex.X4-Attested copy of Title Deed of 1st plaintiff, Ex.X5-Attested copy of Title Deed of 1st plaintiff, Ex.X6-Attested copy of Title Deed of 2nd plaintiff, Ex.X7-Attested copy of crop loan statement of PW 1, Ex.X8-Attested copy of crop loan statement of PW 2 and Ex.X9-Attested copy of mortgage loan statement of PW 1, were marked.

10. On behalf of the defendants, DWs.1 and 2, viz., DW 1-P. Penchalaiah and DW 2-D. S. Ramesh Babu, the then Revenue Inspector of Rudravaram, were examined and Exs.B1 to B8, viz., Ex.B1-True copy of R.H, Ex.B2-Letter addressed for the District Collector, Kurnool, Ex.B3-True copy of R.S.R, Ex.B4-True copy of R.H, Ex.B5-True copy of 10 (1) for Fasli No.1379, Ex.B6-True copy of Adangal fasli No.1414, Ex.B7-Title Deed and Ex.B8-Pattadar passbook, and Exs.X10 to X15, viz., Ex.X10-Re-settlement register photo copy attested by the Tahsildar, Rudravaram for Survey Nos.248, 249, 691 of Alamur, Ex.X11-Photo copy of 10 (1) Adangal for land bearing Survey No.248, 249, 691 attested by Tahsildar, Rudravaram, Ex.X12-Photo copy of No.3 Adangal for Sy.No.248, 249, 691 for Faslis 1415 to 1417, Ex.X13-Photo copy of 10 (1) account for the land bearing Survey No.316, Ex.X14-Photo copy of R.S.R.Register and Ex.X15-Photo copy of No.3 Adangal (attested) for the Faslies 1415 to 1417, were marked.

v) Judgment of learned Trial Court:

11. The learned trial Court observed that the plaintiffs' case was based mainly on Ex.A29, Ex.A31 and Ex.A32, pattadar passbooks to prove that the plaint schedule properties belonged to them. They had also filed Exs.A1 to A28 to show that their predecessors paid cists to the revenue authorities till it was abolished. Those documents are the cist receipts. Their case was that Matam Veerabramha Swamy, the great grandfather of the plaintiffs, was the original owner of the property and it came down to the plaintiffs by succession. The learned trial Court observed that the plaintiffs did not file any documentary evidence to prove that the plaint schedule properties originally belonged to Matam Veerabramha Swamy. No registered document or any revenue adangal was filed to prove the same or that it belonged to any of the ancestors of the plaintiffs. The 2nd defendant had also filed Exs.B7 and B8, the title deed and pattadar passbooks for item No.4 of the plaint schedule property. The learned trial Court observed that except filing of Exs.A1 to A28, the cist receipts and Exs.A29 to A32, the plaintiffs did not file any evidence to prove that the plaint schedule property belonged to their ancestors. So, the plaintiffs failed to discharge their initial burden.

12. Thus considered, the learned trial Court recorded findings on issue Nos.1 and 2 that the plaintiffs had no right and title over the plaint schedule properties and the plaint schedule properties belonged to the 2nd defendant. The plaintiffs were not the owners. These two issues were answered against the plaintiffs and in favour of the 2nd defendant. On issue No.3, the learned

trial Court held that the Civil Court had the jurisdiction to entertain the suit. The issue was answered in favour of the plaintiffs and against the 2nd defendant. Consequent upon the answer on issue Nos. 1 and 2, the learned Trial Court held on issue No.4 that the suit deserved to be dismissed. Finally, the suit was dismissed by judgment and decree, dated 28.07.2011.

II. Submissions of the learned counsels:

i) For the Appellants:

13. Learned senior counsel for the appellants Sri P. Veera Reddy submitted that the plaintiffs' surname is 'Matam' and he referred to the pedigree.

14. Learned counsel for the appellants submitted that in view of the documentary evidence in the form of cist receipts and Exs.A29 to A32, the burden was on the defendants to disprove the title. He submitted that in the written statement, the defendant No.2 admitted the cultivation by the plaintiffs, referring to para-4 of the written statement of the 2nd defendant.

15. Learned counsel for the appellants submitted that though the defendants' case was that the plaint schedule property was the mutt property, but no document was produced to prove that. In paragraph-5 of the written statement, the defendant pleaded ignorance about the plaintiffs' case of being in possession and all the original pattadar passbooks having been snatched away. So, he submitted that pleading ignorance is no denial and consequently, the plaintiffs pleading that, the plaintiffs were in possession and enjoyment of

the plaint schedule property shall be taken as proof by admission of the 2nd defendant as the denial was by pleading ignorance.

16. Learned counsel for the appellants also referred to paragraph-6 of the written statement to contend that the defendants' case was that the plaintiffs and their men in the Alamur village were encroachers over the endowment properties, and they were contemplating to initiate proceedings before the Deputy Commissioner Endowment, Kurnool under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 to get them evicted, but in the meantime the plaintiffs filed the suit, so, pleading further that the defendants were at liberty to take steps required to take back possession from the plaintiffs. Referring to the aforesaid pleadings in the written statement, learned Senior Counsel for the appellants vehemently submitted that the possession of the plaintiffs was thus admitted and any suit or proceeding for the eviction of the plaintiffs, though terming them as encroachers, was not filed nor proceeding initiated, under Section 83 of the Endowments Act, and the defendants also having failed to prove the title to the plaint schedule properties being the property of the endowment/2nd defendant, the learned trial Court should have decreed the suit for declaration of title, as the possession follows title in the absence of proof of a better title.

17. Learned counsel for the appellants placed reliance on the judgment of the Hon'ble Apex Court in ***Chief Conservator of Forests v. Collector***¹

ii) For the 1st Respondent:

¹ (2003) 3 SCC 472

18. Learned Asst. Govt. Pleader for the 1st respondent submitted that there is no illegality in the judgment of the learned trial Court. He submitted that the property belonged to the Mutt and not to the plaintiffs. He submitted that by considering the documentary evidence, as also the oral evidence on record, the finding has been recorded by the learned trial Court dismissing the suit. He submitted that by taking advantage of the name of their father, the plaintiffs created Exs.A29, A31 and A32 i.e., the pattedar passbooks of the 1st plaintiff and the pattedar passbook of the 2nd plaintiff. He submitted that the burden of proof was on the plaintiffs to prove their right and title over the plaint schedule property. The suit for declaration could not be decreed based on the weakness if any of the case of the defendants. The plaintiffs have to stand on the strength of their own case.

III. Points for determination:

19. The following point arises for our consideration and determination:

“Whether the learned trial Court committed error of fact and law in dismissing the suit of the appellant for declaration of right and title over the plaint schedule property?”

IV. Analysis:

20. We have considered the aforesaid submissions and perused the material on record.

21. We are of the considered view that once the suit was filed for declaration over the suit schedule property by the plaintiffs, the burden was on the plaintiffs to prove the title to the suit schedule property.

22. In ***Union of India v. Vasavi Cooperative Housing Society Limited***² the Hon'ble Apex Court clearly laid down that in a suit for declaration of title, the 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. The Hon'ble Apex Court held that the legal position is clear that the plaintiff in a suit for declaration of title and possession could succeed only on the strength of its own title and that could be done only by adducing sufficient evidence to discharge the onus on it, irrespective of the question whether the defendants have proved their case or not. The Hon'ble Apex Court further observed that even if the title set up by the defendants is found against them, in the absence of establishment of the plaintiff's own title, the plaintiff must be non-suited.

23. Paragraphs 15 and 19 of ***Vasavi Cooperative Housing Society Limited*** (supra) read as under:

“15. It is trite law that, in a suit for declaration of title, the 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.

19. The legal position, therefore, is clear that the plaintiff in a suit for declaration of title and possession could succeed only on the strength of its own title and that could be done only by adducing sufficient evidence to discharge the onus on it, irrespective of the question whether the defendants have proved their case or not. We are of the view that even if the title set up by the defendants is found against (*sic* them), in the absence of establishment of the plaintiff's own title, the plaintiff must be non-suited.”

² (2014) 2 SCC 269

24. In ***Jagdish Prasad Patel (dead) through LRs v. Shivnath***³ the Hon'ble Apex court held that in the suit for declaration of title and possession, the plaintiffs could succeed only on the strength of their own title and not on the weakness of the case of the defendants. The burden is on the plaintiffs to establish their title to the suit properties to show that they are entitled for a decree for declaration.

25. Paragraphs 44 and 45 of ***Jagdish Prasad Patel (dead) through LRs*** (supra) read as under:

“44. In the suit for declaration of title and possession, the respondent-plaintiffs could succeed only on the strength of their own title and not on the weakness of the case of the appellant-defendants. The burden is on the respondent-plaintiffs to establish their title to the suit properties to show that they are entitled for a decree for declaration. The respondent-plaintiffs have neither produced the title document i.e. patta-lease which the respondent-plaintiffs are relying upon nor proved their right by adducing any other evidence. As noted above, the revenue entries relied on by them are also held to be not genuine. In any event, revenue entries for few khataunis are not proof of title; but are mere statements for revenue purpose. They cannot confer any right or title on the party relying on them for proving their title.

45. Observing that in a suit for declaration of title, the respondent-plaintiffs are to succeed only on the strength of their own title irrespective of whether the appellant-defendants have proved their case or not, in *Union of India v. Vasavi Coop. Housing Society Ltd.* [*Union of India v. Vasavi Coop. Housing Society Ltd.*, (2014) 2 SCC 269 : (2014) 2 SCC (Civ) 66], it was held as under: (SCC p. 275, para 15)

“15. It is trite law that, in a suit for declaration of title, the burden always lies on the plaintiff to make out and establish a clear case for granting such a

³ (2019) 6 SCC 82

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.”

26. The property was entered in the name of the 2nd defendant – Veera Brahmam Matam by its Manager and the same was established from the revenue record entries. The plaintiffs had to establish their title and also the title of their predecessors. Their claim was based on the pleadings that, the property was in the name of Veera Brahmam Matam and they also used the Matam in their name as the sons of Matam Veerabrahmendra Swamy. So, they were co-relating the Matam property to be their ancestral property, and the suit for declaration was filed. They also submitted that they were in possession, based on the cist receipts Exs.A1 to A28 and the revenue record entries in Exs.A29 to A32. The plaintiffs were therefore required to prove their pedigree and connection with the property, it being an ancestral property as per their case. Merely because of ‘Matam’ being common, the suit for declaration could not be decreed. The cist receipts or the entry in the pattedar passbooks being the mutation entries, would not prove title to the suit property. The plaintiffs could succeed only on the strength of their case, by adducing evidence of title, and not otherwise, even if according to them the 2nd defendant failed to prove its title to the suit property.

27. The learned trial Court in its judgment rightly held that the claim of the plaintiffs was basing on Exs.A1 to A28 cist receipts, and the pattedar passbooks of the 1st and 2nd plaintiff, but the plaintiffs did not adduce any evidence about the right and title of their predecessors, with convincing

evidence, and in the absence of any convincing evidence, the plaintiffs could not succeed basing on the entries in the revenue records.

28. It also held, by relying on Exs.X10 to X15, B6 and B7, that the 2nd defendant in the suit Sri Potuluru Veera Brahmendra Swamy Mutt was the owner and pattedar of the plaint schedule property in which the plaintiffs had no right and title. With respect to the evidence, Exs.X1 to X9, filed by the plaintiffs to show that they were in possession and enjoyment of the properties, the learned trial Court rightly held that those transactions between the plaintiffs and PW 2 were behind the back of the 2nd defendant and therefore, based on the evidence of PW 2 and Exs.X1 to X9 the plaintiffs could not be held to be the owners of the plaint schedule property against the 2nd defendant.

29. Further, Ex.X3, i.e., copy of the simple mortgage loan application of PW 1, is dated 12.11.2007. By that time the suit was already pending. Consequently, the document appearing during the pendency of the suit was of no legal evidentiary value so as to hold title of the plaintiffs over the suit land based on that document, that the plaintiffs had also taken loan and consequently, it should be presumed that the plaintiffs were the owners.

30. In the written statement, the 2nd defendant had specifically taken a stand that the plaintiffs had to strictly prove that Matam Sessaiah is the grandfather of the plaintiffs and that their father was Ayyanna and that Ayyanna's father was one Matam Veera Brahma Swamy. The plaintiffs had to strictly prove that their family name was 'Matam' and Matam Veera Brahma Swamy was their ancestor. The defendants specifically pleaded that the

plaintiffs' predecessors were being called as 'Matam People' and they were associated with service to Sri Pothuluri Veera Brahmendra Swamy Mutt at Kandimallayyapalli, popularly known as 'Sri Brahmamgari Matam'. The defendants' set up the case that the plaintiffs had to strictly prove that their house name or surname was 'Matam' ever since their ancestors. The defendants specifically denied that the family name of the plaintiffs, as 'Matam' and their ancestor was Matam Veera Brahma Swamy.

31. The learned trial Court clearly observed and held that the plaintiffs did not file any documentary evidence that the plaint schedule mentioned properties originally belonged to Sri Pothuluri Veera Brahmendra Swamy. Any registered or any revenue adangal was not filed to prove that the plaint schedule mentioned properties belonged to Matam Veerabrahma Swamy or the ancestors of the plaintiffs. The learned trial Court recorded that the plaintiffs did not file any registered document or registered sale deed or any other registered instrument to prove that the plaint schedule mentioned property belonged to their ancestors. The plaintiffs on the other hand wanted to establish their right and title basing on Exs.A29, A31 and A32 the pattedar passbooks in their favour. On the other hand, the 2nd defendant filed Exs.B7 and B8, the pattedar passbooks for Item No.4 of the plaint schedule properties and those pattedar passbooks were issued in favour of the Commissioner, Endowments, Hyderabad. Further, the documents Exs.X11 to X15 were filed by the defendants which showed that, Sri Potuluru Veera Bramhendra Swamy was the pattedar and the Matam was in its possession and enjoyment. To rebut

those Exs.X11 to X15, the plaintiffs did not adduce any evidence to disprove the contents of those exhibits.

32. The learned trial Court also considering Ex.X12-photo copy of adangal, in which the name of the plaintiffs were shown as enjoyers of the land bearing Sy.Nos.248, 249 and 691 for Faslis 1415 to 1417, held that the plaintiffs did not file any R.S.R. Register or any other document to prove that their ancestors were the owners of the property and so merely basing on entry in Ex.X12, it was rightly held that, it was difficult to say that the plaintiffs were the owners of the property. In view of Exs.B7 and B8, and in the absence of any document of title in plaintiffs' favour, the learned trial Court rightly recorded that the plaintiffs failed to discharge their burden and they were trying to take advantage of the weakness of the defendants' case.

33. The learned trial Court rightly recorded that the plaintiffs failed to discharge their initial burden by proving that the plaint schedule mentioned properties belonged to them. Except filing of Exs.A1 to A28 cist receipts, Exs.A29, A31 and A32 pattedar passbooks, the plaintiffs did not file any evidence to prove that the plaint schedule mentioned properties belonged to their ancestors.

34. Paragraph-4 of the written statement of the 2nd defendant, upon which learned counsel for the appellants placed much reliance, its relevant part reads as under:

“4.....The plaintiffs alleged intensive cultivation in plaint schedule properties and raising of crops would not be a criteria that they are the absolute owners thereof. To the knowledge of this defendant the plaintiffs are not at all

actual cultivators of plaint schedule properties as admittedly they are engaged in other avocations.....”

35. In our view, the aforesaid averments cannot be said to be the admission of the defendant No.2 with respect to the cultivation of the plaintiffs, or based thereon any admission by the defendant No.2 of the plaintiffs being the owners. Defendant No.2 clearly denied the suit property to be the ancestral property of the plaintiffs and also pleaded that it was false to allege that the plaintiffs and their predecessors had been in possession and enjoyment of the plaint schedule property absolutely. The plaintiffs’ case of ‘intensive cultivation’ in the plaint was referred by the 2nd defendant, in para-4 of the written statement as ‘alleged intensive cultivation’. That would not constitute an admission. Further, with respect to the plaint averments of declaration etc., it was said in paragraph-2 of the written statement that the plaintiffs had to prove the same strictly. It was clearly stated that the plaint schedule lands were the endowment properties belonging to Sri Pothuluri Veera Brahmendra Swamy Mutt, Kandimallayapalli and any amount of the alleged spending by the plaintiffs on cultivation or development of the endowment properties would not divest title and rights of the defendant Matam in the plaint schedule properties. So, we are of the considered view that based on the pleadings of the defendant No.2 in para-4 of the written statement, it cannot be said that the plaintiffs’ alleged title to the suit property was admitted and therefore the plaintiffs were not required to prove their plaint case of title to the suit property. The burden

of proof was on the plaintiffs and it cannot be said to have been discharged vide paras-4 or/and 6 of the written statement.

36. With respect to para-5 of the written statement, on which the argument has been advanced that, the denial there under is by saying 'is not aware' and so there is no denial in the eyes of law. We are of the view that, firstly, the averment of the 2nd defendant in para-5 with respect to 'is not aware', is not for the entire contents of para-5 of the plaint, but only with respect to the plaintiff's case that if Mandal Revenue Officer, Rudravaram issued Pattadar Pass Books and the Revenue Divisional Officer of Nandyal along with M.R.O, Rudravaram issued Title deeds for the plaint schedule land in favour of the plaintiffs and the title deeds for all the lands were pledged with Syndicate Bank, Alamur for raising crop loan and the originals were with the Bank and the loan was subsisting. The said ignorance of the defendant is only with respect to the plaintiffs' case of issuance of pattadar passbooks and the title deeds and the loan, which, in our view cannot be said to be the ignorance pleaded with respect to the main case of the plaintiffs for declaration on the basis of possession or/and the property being the ancestral property. The documents, said to have been issued by the Mandal Revenue Officer etc., were also said to be collusive documents to prove the plaintiffs' claim, having no legal value being opposed to the various records maintained by the Government/revenue department. The cist receipts were also said to be not sufficient to prove the plaintiffs' title for the plaint schedule properties. The revenue record maintained by the revenue department was also said to be

clearly showing that all the plaint schedule properties were belonging to the 2nd defendant, who had got right and title over the same and not the plaintiffs and their ancestors. It is well settled in law that the pleadings are to be read as a whole. When read as a whole, the entire written statement, including the remaining contents of para-5, it does not follow that the ignorance was pleaded with respect to the main case of the plaintiffs for declaration. There are specific denials and clear case has been set up that the plaintiffs are not the owners and they are taking the advantage of only their surname 'Matam' and trying to co-relate the property of the 2nd defendant with their ancestors. So the submissions advanced by the learned counsel for the appellants that the defendant pleading in para-5 'is not aware' and therefore, there was admission in the absence of clear denial, is wholly unsustainable and is unacceptable.

37. Learned counsel for the appellants submitted that based on the possession of the plaintiffs, the suit should have been allowed as the possession was admitted and the possession follows title.

38. Section 110 of the Evidence Act reads as under:

"110. Burden of proof as to ownership.—When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner."

39. In ***Nazir Mohamed v. J. Kamala***⁴ it was held that the maxim "possession follows title" is limited in its application to property, which having regard to its nature, does not admit to actual and exclusive occupation, as in

⁴ (2020) 19 SCC 57

the case of open spaces accessible to all. The presumption that possession must be deemed to follow title, arises only where there is no definite proof of possession by anyone else.

40. Paragraphs 47 and 48 of ***Nazir Mohamed*** (supra) read as under:

“47. A person claiming a decree of possession has to establish his entitlement to get such possession and also establish that his claim is not barred by the laws of limitation. He must show that he had possession before the alleged trespasser got possession.

48. The maxim “possession follows title” is limited in its application to property, which having regard to its nature, does not admit to actual and exclusive occupation, as in the case of open spaces accessible to all. The presumption that possession must be deemed to follow title, arises only where there is no definite proof of possession by anyone else. In this case, it is admitted that the appellant-defendant is in possession and not the respondent-plaintiff.”

41. In ***Chief Conservator of Forests*** (supra), the Hon’ble Apex Court held that Section 110 of the Evidence Act embodies the principle that possession of a property furnishes *prima facie* proof of ownership of the possessor and casts burden of proof on the party who denies his ownership. The presumption is rebuttable and is attracted when the possession is *prima facie* lawful and when the contesting party has no title.

42. Paragraphs 19, 20 and 21 of ***Chief Conservator of Forests*** (supra) are as under:

“19. Section 110 of the Evidence Act reads thus:

“110. *Burden of proof as to ownership.*—When the question is whether any person is owner of anything of which he is shown to be in possession, the

burden of proving that he is not the owner is on the person who affirms that he is not the owner.”

20. It embodies the principle that possession of a property furnishes prima facie proof of ownership of the possessor and casts burden of proof on the party who denies his ownership. The presumption, which is rebuttable, is attracted when the possession is prima facie lawful and when the contesting party has no title.

21. This Court in *Nair Service Society Ltd. v. K.C. Alexander* [AIR 1968 SC 1165 : 1968 Ker LT 182] observed: (AIR p. 1173, para 15)

“That possession may prima facie raise a presumption of title no one can deny but this presumption can hardly arise when the facts are known. When the facts disclose no title in either party, possession alone decides.”

43. In ***State of A.P. v. Star Bone Mill & Fertiliser Co.***⁵ the Hon’ble Apex Court held that the principle enshrined in Section 110 of the Evidence Act is based on public policy with the object of preventing persons from committing breach of peace by taking law into their own hands, however good their title over the land in question may be. The said presumption is read under Section 114 of the Evidence Act, and applies only in a case where there is either no proof, or very little proof of ownership on either side. The maxim “possession follows title” is applicable in cases where proof of actual possession cannot reasonably be expected, for instance, in the case of wastelands, or where nothing is known about possession one way or another. Presumption of title as a result of possession, can arise only where facts disclose that no title vests in any party. Possession of the plaintiff is not *prima facie* wrongful, and title of the plaintiff is not proved. It certainly does not mean that because a man has title

⁵ (2013) 9 SCC 319

over some land, he is necessarily in possession of it. It in fact means, that if at any time a man with title was in possession of the said property, the law allows the presumption that such possession was in continuation of the title vested in him. A person must establish that he has continued possession of the suit property, while the other side claiming title, must make out a case of trespass/encroachment, etc. Where the apparent title was with the plaintiffs, it is incumbent upon the defendant, that in order to displace this claim of apparent title and to establish beneficial title in himself, he must establish by way of satisfactory evidence, circumstances that favour his version. Even, a revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/or continuity thereof, both forward and backward, can also be raised under Section 110 of the Evidence Act.

44. Paragraphs 18 to 21 of ***Star Bone Mill & Fertiliser Co.*** (supra) are reproduced as under:

“18. In *Gurunath Manohar Pavaskar v. Nagesh Siddappa Navalgund* [(2007) 13 SCC 565 : AIR 2008 SC 901] this Court held as under : (SCC p. 568, para 12)

“12. A revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/or continuity thereof both forward and backward can also be raised under Section 110 of the Evidence Act.”

19. In *Nair Service Society Ltd. v. K.C. Alexander* [AIR 1968 SC 1165] , dealing with the provisions of Section 110 of the Evidence Act, this Court held as under : (AIR p. 1173, para 15)

“15. ... possession may prima facie raise a presumption of title no one can deny but this presumption can hardly arise when the facts are known. When the facts disclose no title in either party, possession alone decides.”

20. In *Chief Conservator of Forests v. Collector* [(2003) 3 SCC 472 : AIR 2003 SC 1805] , this Court held that : (SCC p. 484, para 20)

“20. ... presumption, which is rebuttable, is attracted when the possession is prima facie lawful and when the contesting party has no title.”

21. The principle enshrined in Section 110 of the Evidence Act is based on public policy with the object of preventing persons from committing breach of peace by taking law into their own hands, however good their title over the land in question may be. It is for this purpose, that the provisions of Section 6 of the Specific Relief Act, 1963, Section 145 of the Code of Criminal Procedure, 1973, and Sections 154 and 158 of the Penal Code, 1860, were enacted. All the aforesaid provisions have the same object. The said presumption is read under Section 114 of the Evidence Act, and applies only in a case where there is either no proof, or very little proof of ownership on either side. The maxim “possession follows title” is applicable in cases where proof of actual possession cannot reasonably be expected, for instance, in the case of wastelands, or where nothing is known about possession one way or another. Presumption of title as a result of possession, can arise only where facts disclose that no title vests in any party. Possession of the plaintiff is not prima facie wrongful, and title of the plaintiff is not proved. It certainly does not mean that because a man has title over some land, he is necessarily in possession of it. It in fact means, that if at any time a man with title was in possession of the said property, the law allows the presumption that such possession was in continuation of the title vested in him. A person must establish that he has continued possession of the suit property, while the other side claiming title, must make out a case of trespass/encroachment, etc. Where the apparent title is with the plaintiffs, it is incumbent upon the defendant, that in order to displace this claim of apparent title and to establish beneficial title in himself, he must establish by way of satisfactory evidence, circumstances that favour his version. Even, a revenue record is not a document of title. It merely raises a presumption

in regard to possession. Presumption of possession and/or continuity thereof, both forward and backward, can also be raised under Section 110 of the Evidence Act.”

45. Recently, in ***Yerikala Sunkalamma v. State of Andhra Pradesh***⁶ the Hon’ble Apex Court, on the principle enshrined in Section 110 of the Evidence Act (now Section 113 of the BSA), held that presumption of title as a result of possession can arise only where facts disclose that no title vests in any party and the possession of the plaintiff is not *prima facie* wrongful. It does not mean that because a man has title over some land, he is necessarily in possession of it. It, in fact, means, that if at any time a man with title was in possession of the said property, the law allows the presumption that such possession was in continuation of the title vested in him. A person must establish that he has continued possession of the suit property, while the other side claiming title, must make out a case of trespass/encroachment, etc. Where the apparent title is with the plaintiffs, it is incumbent upon the defendant, that in order to displace this claim of apparent title and to establish beneficial title in himself, he must establish by way of satisfactory evidence, the circumstances that favour his version. The Hon’ble Apex Court held that Section 113 of the Bharatiya Sakshya Adhiniyam (BSA), 2023, embodies the principle that possession of a property furnishes *prima facie* principle of ownership of the possessor and casts burden of proof on the party who denies his ownership. The presumption, which is rebuttable, is attracted when the possession is *prima facie* lawful and when the contesting party has no title.

⁶ 2025 SCC OnLine SC 630

46. Paragraphs 83 and 84 of ***Yerikala Sunkalamma*** (supra) read as under:

“83. The principle enshrined in Section 110 of the Evidence Act (now Section 113 of the BSA) is based on public policy with the object of preventing persons from committing breach of peace by taking law into their own hands, however good their title over the land in question may be. It is for this purpose that the provisions of Section 6 of the Specific Relief Act, 1963, Section 145 of the Criminal Procedure Code, 1973, and Sections 154 and 158 of the India Penal Code, 1860, were enacted. All the aforesaid provisions have the same objective. **The said presumption is read under Section 114 of the Evidence Act and applies only in a case where there is either no proof, or very little proof of ownership on either side. The maxim “possession follows title” is applicable in cases where proof of actual possession cannot reasonably be expected, for instance, in the case of wastelands, or where nothing is known about possession one way or another. Presumption of title as a result of possession can arise only where facts disclose that no title vests in any party and the possession of the plaintiff is not *prima facie* wrongful. It certainly does not mean that because a man has title over some land, he is necessarily in possession of it. It, in fact, means, that if at any time a man with title was in possession of the said property, the law allows the presumption that such possession was in continuation of the title vested in him.** A person must establish that he has continued possession of the suit property, while the other side claiming title, must make out a case of trespass/encroachment, etc. **Where the apparent title is with the plaintiffs, it is incumbent upon the defendant, that in order to displace this claim of apparent title and to establish beneficial title in himself, he must establish by way of satisfactory evidence, circumstances that favour his version. Even a revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/or continuity thereof, both forward and backward, can also be raised under Section 110 of the**

Evidence Act. [See : *State of Andhra Pradesh v. Star Bone Mill and Fertiliser Company*, (2013) 9 SCC 319]

84. Section 113 of the BSA as discussed aforesaid, embodies the principle that possession of a property furnishes *prima facie* principle of ownership of the possessor and casts burden of proof on the party who denies his ownership. The presumption, which is rebuttable, is attracted when the possession is *prima facie* lawful and when the contesting party has no title.”

47. From the aforesaid judgment, it is evident that the presumption of ownership is rebuttable and that the presumption can be raised only when the possession is valid or lawful. In the present case, even if the submission of the appellants’ counsel be accepted for the time being that the appellants had been in possession, even then, the appellants had to establish that their possession at any time was with title and he continued in possession which *prima facie* was not unlawful. In the absence of there being any document showing the title and the possession not to be unlawful, the presumption under Section 110 of the Evidence Act cannot be invoked. Here in Exs.X7, X8, the property (item No.4) is recorded in the name of the Endowment Commissioner. The plaintiffs’ case is of title in plaintiffs’ ancestors, so their title had to be proved and merely because of possession, if so, by raising presumption of title, suit for declaration could not be decreed.

48. The contention based on mutation entry so as to declare title carry no force. The law is well settled that mutation entries do not confer title nor are evidence of title.

49. In ***Nagar Palika v. Jagat Singh***⁷ the Hon'ble Apex Court held in paragraph 7 with respect to the revenue entries, that those do not confer any title, as under:

“7. The claim of the respondent was that he had purchased the suit land through a sale deed in the year 1970. Thereafter he filed a suit on 17-4-1971 for permanent injunction against the appellant. That suit was ultimately withdrawn on 7-11-1977 with permission to file a fresh suit. Ultimately, the suit with which we are concerned was filed on 23-8-1979. In this background any reliance on entries in the revenue records after 1971 was of not much consequence and value, because the respondent had already instituted the earlier suit which was then pending. **In any case, an order of mutation in the name of the respondent in the revenue records cannot be a source of title.** In the case of *Nirman Singh v. Lal Rudra Partab Narain Singh* [AIR 1926 PC 100 : 53 IA 220] , in respect of mutation of names in revenue records, it was said:

“They are nothing of the kind as has been pointed out times innumerable by the Judicial Committee. **They are much more in the nature of fiscal inquiries instituted in the interest of the State for the purpose of ascertaining which of the several claimants for the occupation of certain denominations of immovable property may be put into occupation of it with greater confidence that the revenue for it will be paid.**

It is little less than a travesty of judicial proceeding to regard the two orders of the Extra Commissioner of Bahraich and Mr M.L. Ferrar, Deputy Commissioner, as judicial determinations expelling proprio vigore any individual from any proprietary right or interest he claims in immovable property.”

⁷ (1995) 3 SCC 426

50. In ***Suraj Bhan v. Financial Commissioner***⁸ with respect to the entries in the revenue records, the Hon'ble Apex Court held that those do not confer any ownership. Paragraph 9 of the said judgment reads as under:

“9. There is an additional reason as to why we need not interfere with that order under Article 136 of the Constitution. **It is well settled that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. It is settled law that entries in the revenue records or jamabandi have only “fiscal purpose” i.e. payment of land revenue, and no ownership is conferred on the basis of such entries.** So far as title to the property is concerned, it can only be decided by a competent civil court (vide *Jattu Ram v. Hakam Singh* [(1993) 4 SCC 403 : AIR 1994 SC 1653]). As already noted earlier, civil proceedings in regard to genuineness of will are pending with the High Court of Delhi. In the circumstances, we see no reason to interfere with the order passed by the High Court in the writ petition.”

51. The Hon'ble Apex Court in ***Jagdish Prasad Patel (dead) through LRs.*** (supra) held that the revenue entries for few khataunis were not proof of title, but were mere statements for revenue purpose. They could not confer any right or title on the party relying on them for proving their title.

52. In ***Vasavi Cooperative Housing Society Limited*** (supra), with respect to the revenue record entries, the Hon'ble Apex Court reiterated that revenue records are not documents of title and the question of interpretation of a document not being a document of title is not a question of law. The entries in the record of rights itself would not confer any title on the plaintiff to the suit land. An entry in the revenue papers by no stretch of imagination can form the basis for declaration of title in favour of the plaintiffs.

⁸ (2007) 6 SCC 186

53. Para-21 of ***Vasavi Cooperative Housing Society Limited*** (supra) reads as undr:

“21. This Court in several judgments has held that the revenue records do not confer title. In *Corpn. of the City of Bangalore v. M. Papaiah* [(1989) 3 SCC 612] this Court held that: (SCC p. 615, para 5)

“5. ... It is firmly established that the revenue records are not documents of title, and the question of interpretation of a document not being a document of title is not a question of law.”

In *Guru Amarjit Singh v. Rattan Chand* [(1993) 4 SCC 349] this Court has held that: (SCC p. 352, para 2)

“2. ... that entries in the Jamabandi are not proof of title.”

In *State of H.P. v. Keshav Ram* [(1996) 11 SCC 257] this Court held that: (SCC p. 259, para 5)

“5. ... an entry in the revenue papers by no stretch of imagination can form the basis for declaration of title in favour of the plaintiffs.”

V. Conclusion:

54. In conclusion, we hold that:

- i) In a suit for declaration of title, the burden of proof is always on plaintiffs to prove the title by adducing cogent evidence to the satisfaction of the Court.
- ii) When the suit for declaration was filed based on title to the suit property in favour of the plaintiffs' ancestors and so after them, in the plaintiffs, the plaintiffs had to prove the title of their ancestors to suit property by adducing cogent evidence of title.
- iii) Mere mutation in revenue records does not confer any title nor is a proof of title.

- iv) Possession follows title, is the presumption that may be raised under Section 110 of the Evidence Act (Section 113 of the Bharatiya Sakshya Adiniyam (BSA), 2023. To raise such presumption, the possession must at any time be with title and the person must have continued with possession which was *prima facie* not unlawful and the contesting party had no title. This maxim is applicable in cases where proof of actual possession cannot reasonably be expected, for instance, in the case of wastelands, or where nothing is known about possession one way or another. The presumption is rebuttable.
- v) The property being recorded in the name of the 2nd defendant (Endowment Commissioner) Exs.X7 & X8, the presumption that possession follows title, cannot be attracted nor invoked to grant declaration of title, in the absence of any document of title in favour of the plaintiffs' ancestors, since the claim itself was based on title.
- vi) Mere resemblance of the surname 'Matam' would not make the property recorded in the name of 'Mutt' the ancestral property of the plaintiffs.
- vii) The plaintiffs having failed to establish title by adducing document of title the suit for declaration could not succeed.
- viii) The judgment of the learned trial Court does not suffer from any error of fact or law. It does not call for any interference in the exercise of our appellate jurisdiction.

VI. Result:

55. In the result, the appeal lacks merit and is dismissed.

56. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

Date: 07.01.2026
Dsr

Note:

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