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THE HONOURABLE SRI JUSTICE D RAMESH

*** THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

+C.M.A.NO.280 OF 2026

% 23.06.2026

#Between:

Mantri Vasantha Kumari, and Others

...Appellant(s)

Vs.

Sri Pagadala Subbarayudu Alias Subbaiah and Others

...Respondent(s)

! Advocate for Appellant(s):

V R REDDY KOVVURI

^ Advocate for Respondent(s):

VARREY VENKATA NAGA VISHNU
TEJA

<Gist:

>Head Note:

? Cases referred:

1. 2006 SCC OnLine AP 298
2. 1998 (1) A.P.L.J 161 (HC)
3. (2017) 5 ALD 348 (DB)
4. 2022 SCC OnLine AP 71
5. (2019) 11 SCC 309

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI*********C.M.A.NO.280 OF 2026**

Mantri Vasantha Kumari, and Others

...Appellant(s)

Vs.

Sri Pagadala Subbarayudu Alias Subbaiah and Others

...Respondent(s)

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE D RAMESH
&
THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI

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

JUSTICE D RAMESH

JUSTICE BALAJI MEDAMALLI

THE HONOURABLE SRI JUSTICE D RAMESH

&

THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI

CIVIL MISCELLANEOUS APPEAL NO: 280 of 2026

JUDGMENT: *(Per Hon'ble Sri Justice Balaji Medamalli)*

The present appeal is filed against the order dated 31.03.2026 passed in I.A.No.636 of 2025 in O.S.No.75 of 2025 on the file of the learned VII Additional District Judge, Kadapa, whereby the trial court allowed the application filed under Order XXXIX Rule 1 of the CPC granting temporary injunction restraining the appellants herein/ respondent Nos.1 to 4/ defendant Nos. 1 to 4 from interfering with the peaceful possession and enjoyment of the suit schedule property, from changing its physical features, and from raising any constructions thereon till disposal of the main suit.

2. The brief facts of the case are that the respondent Nos. 1 to 3 herein filed suit in O.S.No.75 of 2025 on the file of the learned VII Additional District Judge, Kadapa seeking the reliefs as under

"It is therefore most humbly prayed that this honourable court may be pleased to pass decree and judgement in favour of the plaintiff No.1 and against Defendants or such of the defendants as the case may be i) By declaring the possessory right and enjoyment of the plaintiff No.1 in the suit property as the case may be as not to interfere with the peaceful possession and enjoyment of the and consequently issue permanent injunction against the defendants or such of the defendants plaintiff No.1 in the same or damage his rights in any way.

ii) a) Declare that the document executed by Madam Rama Subbamma Wife of Subbaiah u/Document no. 2213/1998 dt 22/6/1998 in favour of M. Vasantha kumar (D-1) as void

b) Declare that the sale deed executed by Pagadala Subbamma wife of Pagadala Subbaiah alias Subbanna (brother of Nagaiah) Doc No. 6485/2006 dt 22.6.2006 executed in favour of Kishore Kumar D-2 as void

c) declare that the sale deed executed by Mada Venkata Subbamma W/o Mada Pedda, Venkateswarlu (who claimed through a gift deed from her brother Dandu Sreenivasulu) in favour of Def no. 2 under document No 6383/2006 dt 22.6.2006 as void.

d) Declare that the document executed by Dandu Obulamma W/o Karnam Sreenivasulu claimed through Gift Deed from Dandu Chinna Subbarayudu alias Bheemaiah u/ Doc No. 1830/2006 dt 2/3/2006 in favour of Kishore Kumar D-2 as void.

iii) Direct the Defendants Nos 1 to 4 to pay damages at Rs 13,00,000/- together with interest at 24% pa., from the date of the suit till the date of realisation to the plaintiff No.1.

iv) grant such other or further orders as the Honourable Court deemed fit and proper in the interest of justice

v) Grant the suit costs to the Plaintiff No.1”

3. The case of the respondents/ plaintiffs is that, as per the entries in RSR, the land in Sy.No.555 in an extent of Ac.3.18 cents stood in the names of 12 members. However, as per the Register of Holdings (RH), there were several registrations noticed on this property, but none of such persons had any enjoyment over the suit schedule property. It is further stated that one Mr Pagadala Nagaiah and Mr. Pagadala Subbaiah, sons of late Subbaiah , were real brothers, and in the oral partition and understanding, the lands in Sy Nos.

555 and 349 of Mamillapalle Village of C.K. Dinne Mandalam, fell to the share of the eldest son Mr. Pagadala Nagaiah, who continued to enjoy the same and was in occupation in an extent of Ac.3.18 cents in Sy.No. 555 and Ac.1.75 cents in Sy.No.349. Subsequently, the said property succeeded by his eldest son i.e., the 1st plaintiff herein as per the oral understanding between his brother and sister i.e., 2nd and 3rd plaintiffs and the 1st plaintiff has been in possession and enjoyment of the same by getting his name mutated in the revenue records for item No.1 of the suit schedule property, and further stated that the said Nagaiah was continued in possession for the item No.2 till recent past. The said facts were well within the complete knowledge and notice of all the defendants and also the entire locality and none objected the indefeasible right and enjoyment of the 1st plaintiff, as such, the defendant Nos.1 to 4 are estopped to question now as their silent conduct acquiesces the possessory rights of the family of the 1st plaintiff i.e., son of Pagadala Nagaiah.

4. It was also contended that there were civil suits filed in O.S. No.162 and 163 of 2006 by one Mr Pothireddi Naga Munaiah and Yakasi Gurrappa respectively on the file of the learned IV Additional Junior Civil Judge, Kadapa with regard to the property covered in Sy.No. 555/1 out of which an extent of Ac.0.49 cents was claimed in each of the said two suits; wherein defendant Nos.1 and 4 herein were arrayed as defendant Nos. 2 and 6, and the written statement filed by defendant Nos.1 and 7 therein was adopted by defendant Nos.

2 and 6 (who are defendant Nos.1 and 4 herein) wherein they have set up the rights in late Pagadala Nagaiah/ father of plaintiffs for an extent of Ac.1.40 cents in Sy.No.555/1. In addition to that, the defendants projected another version that they have purchased the properties as detailed in the table annexed to the plaint and sought for declaration of possessory title and enjoyment of 1st plaintiff over the suit schedule property, also sought for declaration that Document Nos. 2213/1998 dated 22.06.1998, 6485/2006 dated 22.06.2006, 6383/2006 dated 22.06.2006 and 1830/2006 dated 02.03.2006 executed in favor of defendant Nos.1 and 2 as void and also sought for damages of Rs.13 lakhs with interest from defendant Nos.1 to 4. Thus, in a nutshell, the suit is filed basing on a possessory title over the subject property.

5. Along with the suit, plaintiffs have filed I.A. No. 636 of 2025 for grant of temporary injunction with the following relief:

“...this hon'ble court may be pleased to issue Temporary injunction in favour of the plaintiff no.1 restraining the Def Nos...1 to 9 or their agents as not to interfere with the peaceful possession and enjoyment of the 1st plaintiff in the suit schedule property or in any way change the physical features or try to create any sort of encumbrance over the same or change the physical features of the suit property till the disposal of the main suit and pass such other or further orders in the interest of Justice...”

6. The learned Judge while considering the above said interim application for injunction, granted temporary injunction restraining the respondents from interfering with the scheduled property, from changing its physical features, and

from raising any constructions thereon in the suit scheduled property till disposal of the suit.

7. Aggrieved by the said order dated 31.03.2026, the appellants herein preferred the present appeal.

8. Heard Sri O. Manohar Reddy, learned Senior Counsel, instructed by Sri V.R. Reddy Kovvuri, learned Counsel for the appellants, and Sri P. Veera Reddy, learned Senior Counsel, instructed by Sri Varrey Venkata Naga Vishnu Teja, learned Counsel for the respondents.

9. The principal contention of the learned senior counsel appearing for the appellants is that the trial court failed to examine whether the plaintiffs had established the cardinal principles for grant of temporary injunction, namely, *prima facie* case, balance of convenience, and irreparable loss. Though several documents were filed along with the plaint as well as the counter, none of the said documents were considered; rather, the court recorded that no evidence was adduced and no documents were marked. Though certain documents were referred to in the impugned order, the learned Judge has recorded as no documents are marked. It is further contended that the learned Judge failed to consider that the affidavit filed in support of the interlocutory application and the material placed along with the same do not substantiate the right, title and possession of the plaintiffs and no documents to establish the possession of the

plaintiffs have been placed on record except the entries made in RSR in favour of one Mr P. Nagaiah, claimed to be the ancestor of plaintiffs and no material is forthcoming to establish their continuous right, title and possession over the suit schedule property, contradicting the registered sale transactions during the years 1927 to 2020.

10. It is also contended that the learned Judge failed to consider the land acquisition proceedings and the award passed in favour of the 1st appellant for a part of the subject land and also the subsequent documentary evidence. It was the further case of the appellants that the appellants have filed interlocutory application in I.A.No.142 of 2026 in I.A.No. 636 of 2025 seeking to receive the copies of documents such as registered sale deeds, gift deeds, original pattadar passbooks, title deeds, adangals, 1-B Namuna, land acquisition proceedings and the award in favour of the 1st appellant. Though, the learned Judge perused those documents during the course of hearing, failed to observe the same in the impugned order and also failed to mark those documents. Apart from the above, the revenue proceedings before the Revenue Divisional Officer, as well as the orders passed in W.P.No. 39323 of 2023 and W.A.No. 21 of 2025, which conclusively negated the very foundation of *prima facie* case and proof of possession over the subject property, and the trial court without observing all those facts had mechanically granted the temporary injunction.

11. Learned Senior Counsel for the appellants further submitted that the above interlocutory application was filed for several reliefs. As per Rule 55 of the AP

Civil Rules of Practice and Circular Orders, 1980, there shall be a separate application in respect of each distinct relief sought for and in the event of several reliefs are combined in a single application, the court may direct the applicant to confine the application only to one of such reliefs, unless such reliefs are consequential in nature. In the instant case, the petitioners/ plaintiffs sought for the relief of injunction restraining the defendants or their agents from interfering with the peaceful possession and enjoyment of the plaint scheduled property, and also sought for the relief of not to change the physical features apart from asking for a third relief of not to create any sort of encumbrances over the scheduled property. The learned judge, without considering the above said rule and also settled principles of law that several reliefs cannot be sought in one application and separate applications are to be filed for each relief, passed the impugned order. For the sake of convenience, Rule 55 of the AP Civil Rules of Practice and Circular Orders, 1980 is extracted hereunder.

“55. There shall be separate application in respect of each distinct relief prayed for. When several relief’s are combined in one application, the court may direct the applicant to confine the application only to one of such relief’s unless the relief’s are consequential and to file a separate application in respect of each of the others.”

12. A plain reading of the above rule makes it clear that a party shall file separate applications in respect of each distinct relief. In the instant case, several reliefs were sought in a single application. However, the learned Judge, without restricting the plaintiffs to a single relief, had allowed the application and granted

the reliefs even more than the reliefs sought for by restraining the defendants from raising constructions in the petition schedule property. Thus, the order passed by the learned Judge on this itself is contrary to Rule 55 of the AP Civil Rules of Practice and Circular Orders, 1980.

13. Learned senior counsel for the appellants placed reliance on a judgment of this Court in ***Supriya Cold Storage, Warangal Vs K.Sambasiva Rao and others***¹ wherein the relevant portion is extracted hereunder

3. *The relief prayed for in the said I.A., filed under Order XVI Rules 1 and 5 read with Order XVIII Rule 17 and Section 151 of the Code of Civil Procedure, is as hereunder:*

“For the reasons stated in the accompanying affidavit, the petitioner prays that the Hon'ble Court may be pleased to issue summons to Manager ING Vysya Bank, Hanamkonda Branch directing him to produce vouchers under to which loan amount of the defendants vide loan A/c No. 26/PC and another is repaid, by reopening the evidence of plaintiff.”

4. *It is needless to say that 3 reliefs had been prayed for in the said, same application. Rule 55 of the A.P. Civil Rules of Practice and Circular Orders, 1980 dealing with Separate Application for each distinct prayer reads as hereunder:*

“There shall be separate application in respect of each distinct relief prayed for. When several reliefs are combined in one application, the Court may direct the applicant to confine the application only to one of such reliefs unless the reliefs are consequential and to file a separate application in respect of each of the others.”

5. *Apart from this aspect of the matter, it appears that the matter was posted for arguments and at that stage this application had been filed. In the light of the reasons which had been recorded at Paras 8, 9 and 10 of the impugned order and also in the light of Rule 55 of the A.P. Civil Rules of Practice and Circular Orders, 1980 referred to supra, the impugned order cannot be found fault. However, inasmuch as the learned Judge also observed that the application is not maintainable as per Rule 55 of the A.P. Civil Rules of Practice and Circular Orders, 1980 aforesaid, the impugned order cannot be found fault and*

¹ 2006 SCC OnLine AP 298

accordingly the C.R.P., shall stand dismissed at the stage of admission itself giving liberty to the petitioner to move appropriate applications if he is so advised.

14. It is clear from the above that the learned trial judge without considering that several distinct reliefs were sought by the plaintiffs in one single application in respect of the suit schedule property, passed the order on all such reliefs in a single application which is impugned in the present appeal.

15. Learned Senior Counsel would also submit that though several documents are filed, the learned judge, without even marking those documents, had simply recorded that no documents were marked. It is contended that though no specific rule is provided for marking the documents as exhibits at the stage of interlocutory proceedings, the courts are not justified in not giving marking to all such documents which either of the parties would rely. For the said proposition, learned counsel placed reliance on a judgment of Division Bench of this Court in the matter of ***T.Bhoopal Reddy and Another Vs Smt.K.R.Laxmi Bai and Another***², wherein the relevant portion is extracted hereunder

9. Before parting with the case, we have to record the difficulty which we experienced to find out the nature and details of 35 documents said to have been filed by the petitioners and 118 documents said to have been filed by the respondents.

10. The learned Subordinate Judge has merely stated that the petitioners have filed 35 documents while the respondents have filed 118 documents. Probably in view of the judgment of our learned brother Mr. Justice B.K. Somasekhara in G. Sambraiyam vs. P. Mahalakshamma & Ors. (1) 1995(1) ALD 358, that there is no provision in the Civil Rules of Practice for

² 1998 (1) A.P.L.J 161 (HC)

marking the documents as exhibits at the stage of interlocutory matters, the learned Sub ordinate Judge has not given any mark to these documents. inconvenience to us while disposing of this appeal. In our opinion, even though Rule 115 of the Civil Rules of Practice envisages marking of exhibits adduced in evidence as 'A', 'B', 'C' and 'X' series as the case may be during trial, the same cannot be construed so as to exclude the marking of any document in an interlocutory matter. It may be so that the court while deciding the interlocutory application will look into the prima facie case of both sides. In that process, necessarily, each side will be depending upon certain documents which may ultimately be sought to be proved during the course of trial.

11. To visualise that the contesting parties in an interlocutory application will not be able to rely on the documentary evidence upon which they ultimately rely in the trial - would be placing the contesting party in an interlocutory application to rely only on the affidavits which the learned judge thought would be the correct procedure. It may be so that the learned judge was quite conscious that in spite of the fact that the affidavits cannot be the evidence as they are not included in the definition of evidence under Section 3 of the Evidence Act, the court may permit any affidavits to be produced under Order-19 Rule-1 and 2 of the Civil Procedure Code. That being the premise on which the learned judge proceeded to observe that the documents cannot be given a marking, the only alternative for any trial court which hears interlocutory applications would be to decide the prima facie case only on the strength of affidavits. At the same time, we are unable to comprehend as to how a prima facie case is established by the successful party without referring to and marking the documents.

15. As stated earlier, we are quite conscious of the fact that the documents marked for purpose of determination of any interlocutory application cannot be treated as evidence per se but would enable the court to prima facie come to a conclusion about the merits or demerits of the contentions advanced. For the reasons aforesaid, we disapprove the view taken by Mr. Justice Somasekhara in the case referred to supra insofar as marking of the documents in the interlocutory applications.

16. Further. in order to avoid any further difficulties, it is desirable to incorporate a rule in Civil Rules of Practice for giving a separate marking to the documents relied upon by either party in interlocutory proceedings by directing the trial courts to mark such of the documents relied upon by the petitioners in the interlocutory applications as 'P' series and the documents relied upon by the respondents as 'R' series to avoid any difficulty in identifying the documents at a later stage of the proceedings and also during trial.

16. Learned Senior Counsel placing reliance on the above, contended that at least for the purpose of considering the documents relied upon, the learned judge ought to have given some marking so that it would be proper and convenient for the parties and also for the purpose of appreciating by the appellate courts or for the understanding of the parties itself.

17. Learned Senior Counsel also placed reliance on a judgment of this Court in **B. Parijatham Vs M.Kameshwari**³, wherein the relevant portion is extracted hereunder

9. Before closing these cases, we feel the necessity of observing that instances have been coming to the notice of this Court, where some Subordinate Courts have not been marking the documents while disposing of the interlocutory applications. In this context, we are reminded of a Division Bench judgment of this Court in T. Bhoopal Reddy v. K.R. Laxmi Bai, [(1998) 1 ALT 292 (D.B.)], wherein it was observed that in order to come to a prima facie conclusion, both the trial Court and the Appellate Court should necessarily be able to locate the documents and know its contents to agree with either of the contentions; that nowhere it is envisaged that the case of the contesting parties can only be decided on the affidavits and not on any other material and that in the absence of any specific rule so far as marking of documents at the interlocutory stage is concerned, the Courts would not be justified in not giving any marking at all to such of the documents on which both sides would rely. Regrettably, despite this authoritative pronouncement of the Division Bench, some Courts have been ignoring the same and not marking the documents. The case on hand reflects one such instance. We, therefore, direct the High Court on administrative side to issue a Circular directing the Subordinate Courts to mark the documents filed by the parties to the interlocutory applications before deciding such applications.

18. Learned Senior Counsel placing reliance on the above, submitted that the documents placed before the court in the interlocutory applications, while

³ (2017) 5 ALD 348 (DB)

considering the same, they are to be given some markings which would enable the appellate court to locate the documents and to know its contents and the basis for the findings. Non-marking of the said documents would leads to confusion and the basis on which the court arrive its conclusion cannot be derived. Thus, it is incumbent on the court to give some marking to the documents while considering the application for interlocutory orders also.

19. Learned Senior Counsel further contended that the suits in O.S.Nos.162 and 163 of 2006 on the file of the learned IV Additional Junior Civil Judge, Kadapa, filed by Pothireddi Nagamuniah and others and Yakasi Gurappa and others respectively, wherein the 1st plaintiff was arrayed as party defendant along with the appellant Nos.1 and 4 herein. The 1st plaintiff remained *ex parte* in the said suit; however, the appellant Nos. 1 and 4 herein have contested the suit and filed their written statement, wherein a specific stand was taken that the appellant Nos. 1 and 4 herein, who are arrayed as defendant Nos.2 and 6 in the said suits, were in possession of the subject property. The relevant pleading in the written statement which are stated in Paragraph No.7 of the written statement reads as under.

“Originally, an extent of AC 1.40 cents in Sy.No. 555/1 belonged to Pagadala Nagaiah of Balijapalli. Thus, the said land belongs to Pagadala family. The suit land is part and parcel of said Ac.1.40 cents. The 1st defendant's grandfather Dandu Subbarayudu migrated to Balijapalli village having married in Pagadala family as Illatam-son-in-law. Hence, in the family arrangement of Pagadala people an extent of Ac.0.70 cents out of Ac.1.40 cents came to be vested on the said

Subbarayudu and on his death, the said land devolved upon his two sons, namely, D.Pedda Subbarayudu and D.Chinna Subbarayudu. The defendant No.1 is the son of Pagadala Subbarayudu and he is in possession of Ac.0.35 cents of land which come to the share of his father. Similarly D. Chinna Venkata Subbaiah son of Chinna Subbarayudu is in possession of remaining Ac.0.35 cents, which fell to the share of his father. In proof and recognition of their title and possession, the Mandal Revenue Officer, C.K.Dinne Mandal issued pattadhar pass books in favour of defendant No.1 and his cousin D.Chinna Venkata Subbaiah. The said Chinna Venkata Subbaiah executed a gift settlement deed in respect of his share of Ac.0.35 cents in favour of his sister Obulamma.

20. Further the averments in Paragraph No.8 reads as under:

“The defendant No.6 is the wife of 2nd defendant. Both of them have purchased an extent of Ac. 1-78 cents in suit S.No. 555/1 and land in some other Sy.No.s from its lawful owners Madam Nagaiah and his family members under a Registered sale deed dated: 22-6-1998. The lands sold by Madam Nagaiah is his ancestral property. Madam Nagaiah and his ancestors were in possession of the said lands till they sold the same to defendant Nos. 2 and 6. The defendant No.2 had got executed the sale deed in favour of his wife i.e., defendant No.6 and Pattadhar pass books were also issued in favour of defendant No.6 and defendants Nos. 2 and 6 were in possession and enjoyment of their respective lands. That is how the claim of plaintiffs therein was resisted by defendant Nos.2 and 6.”

21. The 1st plaintiff, being a party to the above-said suits, has not chosen to contest the suit. However, after dismissal of the said suits, he came up with the present suit and sought for the injunction, as stated above along with declaration of his right based on his possession over the suit schedule property.

22. In a suit for declaration basing on possessory right, it is the duty of the court to examine the aspect of continuous possession of the party claiming such right. A party claiming such right over the property on the basis of said

possession must establish such continuous possession as on the date of institution of the suit. A specific finding to that effect is also to be recorded on the basis of the material available before the court. For the said proposition, learned senior counsel appearing for the appellants relied upon the judgment of Division Bench of this court in ***Bhimavarapu Nageswaramma Vs Bommu Siva Reddy***⁴, wherein the relevant portion is extracted hereunder

“26. In the matter of granting temporary injunction, it is the duty of the court to take into consideration the affidavit and the relevant documents before it records a finding. Taking into consideration the documents does not mean merely referring the same in the judgment but there must be some discussion about them before any conclusion arrived at. Unfortunately, the court below has not adverted to the documents filed by the appellants/plaintiffs at least prima facie. The interim injunction is no doubt a discretionary relief, but it has to be granted only after applying judicial mind and on a proper discussion of the evidence on record. Mere reference to the documents filed and the affidavits placed before the court does not satisfy the requirement of exercise of discretionary power in a judicial manner.

27. So far as the judgments in the cases of Payappar Sree Dharmasastha Temple A.Com. vs. A.K.Josseph & Ors. (1 supra) and Atluri Kuchela Rao vs. The District Collector and Another (2 supra) upon which reliance has been placed by the learned counsel for the appellants are concerned, there is no dispute on the proposition of law that a decree would be binding on the parties to the suit and not on third party, but the question as to whether on the date of institution of O.S.No.281 of 2016 the appellants were in possession or not, is to be considered and a finding to be recorded on the basis of the material available before the court. The decree may not be binding on a person unless he was party to the suit or stood in the shoes of the party to the suit, but if in execution of the decree, the actual position of possession is changed, then a non-party to the suit cannot say that actual position of possession be ignored for grant of temporary injunction only because such person was not party in the suit and the decree passed therein was not binding on such non-party.”

⁴ 2022 SCC Online AP 71

23. Learned Senior Counsel also placed reliance on **Poona Ram Vs Moti Ram and Others**⁵, wherein the relevant portion is extracted hereunder

15. The crux of the matter is that a person who asserts possessory title over a particular property will have to show that he is under settled or established possession of the said property. But merely stray or intermittent acts of trespass do not give such a right against the true owner. Settled possession means such possession over the property which has existed for a sufficiently long period of time, and has been acquiesced to by the true owner. A casual act of possession does not have the effect of interrupting the possession of the rightful owner. A stray act of trespass, or a possession which has not matured into settled possession, can be obstructed or removed by the true owner even by using necessary force. Settled possession must be (i) effective, (ii) undisturbed, and (iii) to the knowledge of the owner or without any attempt at concealment by the trespasser. There cannot be a straitjacket formula to determine settled possession. Occupation of a property by a person as an agent or a servant acting at the instance of the owner will not amount to actual legal possession. The possession should contain an element of animus possidendi. The nature of possession of the trespasser is to be decided based on the facts and circumstances of each case.

24. Learned senior counsel placing reliance on the above contends that the possessory right over a particular property will have to show that he is under settled or established possession of the said property. But mere stray or intermittent acts of trespass do not give such a right against the true owner. Settled possession must be (i) effective, (ii) undisturbed, and (iii) to the knowledge of the owner or without any attempt at concealment by the trespasser. In the instance case, except some stray entries, no such documentary evidence is placed before the trial court to decide the possessory right/ title of the appellants, as such, the trial court went beyond the brief and granted the interim prayer as prayed in the petition.

⁵ (2019) 11 SCC 309

25. In the instant case, learned Judge has not referred to any of the documents to establish the possession of the plaintiffs for granting the discretionary relief of temporary injunction. Though the interim injunction, no doubt is a discretionary relief, it has to be granted only after applying the judicial mind and on proper discussion of the evidence on record. Mere reference to the documents filed and the affidavits placed before the court does not satisfy the requirement of exercise of discretionary power in judicial manner and the party must establish uninterrupted continuous possession over the subject property as on the date of institution of suit.

26. It is further argued by the learned senior counsel and drawn the attention of this court to the findings recorded by the learned Judge, particularly in Paragraph Nos.27 and 28 of the order impugned, whereunder the learned Judge recorded as under:

“27. Whereas the petitioners also filed all the documents which are filed by the respondents, apart from them they also filed 10-1 account, pahani and adangal, ROR which reflects the name of the Nagaiah and Subbaiah and they also filed 10-1 stands in the name of Nagamma. The plaintiffs succeeded the same as per their version and they denied all the documents of respondents. However, after scrutiny of the above said documents of both sides particularly the revenue documents which are RSR, 10-1 B etc needs full pledged trial. But at this stage, the petitioners established the prima-facie case by way of documentary evidence showing that the suit schedule property are belongs to 12 persons and out of them P.Nagaiah and Subbaiah have been in possession and enjoyment of the suit schedule property and the plaintiffs being legal heirs of said P.Nagaiah and Subbaiah succeeded the same, the second and third petitioners have no claim in the suit

property being brother and sister of the petitioner. The above said documents and contentions of the petitioners establishes prima-facie case and balance of convenience.

28. Whereas the rival documents and contentions of the respondents based on the revenue documents though filed, they does not reflect the names of P.Nagaiah and Subbaiah, as such the balance of convenience in title of the respondents has to require full pledged trial to know their validity and genuineness. Further, there is irreparable loss caused to the petitioners if the respondents succeeded in their attempt in encroaching the petition schedule property and to change the physical features of the same etc. Accordingly, prima-facie case, balance of convenience, irreparable loss and possession of the petitioners over the petition schedule property is established by the petitioners, as such they are entitled for temporary injunction. Therefore, this petition is liable to be allowed.”

Except making bare statement unsupported by the documentary evidence and without referring to any specific document to establish the possession of the plaintiffs over the subject property, had come to a conclusion and recorded a finding about the possession of the plaintiffs. Such a conclusion without referring to any documentary evidence would clearly indicate that learned Judge failed to appreciate the documents filed on either side. It is relevant to mention here that, though certain documents are sought to be filed by the defendants/ appellant Nos.1 to 4 herein, the learned Judge, while entertaining the application as stated above, did not even advert to those documents, which clearly indicates that the said documents were not considered and the learned Judge without there being any appreciation of evidence, had simply recorded a finding that plaintiffs are in possession of the property which is contrary to the very pleadings on record. Even as per the land acquisition proceedings which were initiated in respect of a

portion of land in the subject survey number and payment of compensation in favour of the 1st appellant herein would go to show that learned Judge has miserably failed to appreciate the crucial factual aspects and recorded findings without any basis.

27. Per contra, learned senior counsel appearing for the respondents/ plaintiffs submitted that the learned Judge had duly considered the documentary evidence filed on behalf of the plaintiffs, elaborately dealt with the same, and passed the order protecting the interest of the plaintiffs. It is further contended that the relief granted at the interlocutory stage is discretionary in nature and, therefore, does not warrant interference at this stage.

28. Having considered the rival submissions and upon perusal of the record, this Court is of the considered opinion that the learned judge has failed to consider the documentary evidence placed on record and has not recorded any specific finding referring to the relevant documents with regard to the possession of the plaintiffs. The learned Judge also erred in not giving marking to the documents relied upon, though they were referred to. Apart from this, the learned Judge had entertained a single application seeking multiple reliefs, which is contrary to Rule 55 of the Civil Rules of Practice.

29. In view of the above, this court is of the considered opinion that it is a matter to be remanded for the purpose of considering afresh by the learned trial

Judge. The learned Judge shall reconsider the matter afresh by providing necessary opportunity to both the sides to place all the relevant documentary evidence on record, duly receive and evaluate them, and pass appropriate orders in accordance with law.

30. At this juncture, learned senior counsel for the appellants requested to made over the suit to any other officer other than the present Presiding Officer, contending that, despite receiving the documents, the learned Judge neither considered nor referred to them while passing the impugned order. Certain allegations were also sought to be made against the officer; however, this court is not inclined to advert to the same, as they are not part of the pleadings. However, the parties are at liberty to take appropriate steps before the learned Principal District Judge, Kadapa, if they have any grievance with regard to the conduct of the Presiding Officer, and to seek appropriate relief regarding entrustment of the case, which is purely in the domain of learned Principal District Judge, Kadapa.

31. In view of the above, this Civil Miscellaneous Appeal is allowed. Consequently, the impugned order dated 31.03.2026 passed in I.A.No.636 of 2025 in O.S.No.75 of 2025 on the file of the learned VII Additional District Judge, Kadapa is set aside and the matter is remanded to the learned VII Additional District Judge, Kadapa for fresh consideration. The learned Judge shall provide

opportunity to both parties to place all relevant documentary evidence on record, if any, duly receive and evaluate them, and pass appropriate orders in I.A.No.636 of 2025 in O.S.No.75 of 2025 strictly in accordance with law. There shall be no order as to costs.

As a sequel, miscellaneous applications, pending, if any, shall stand closed.

JUSTICE D RAMESH

JUSTICE BALAJI MEDAMALLI

Date: 23.06.2026

Dvs

Whether the order is:

Speaking	☒	Reasoned	☒
Reportable	☒	Non-reportable	

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THE HONOURABLE SRI JUSTICE D RAMESH

&

THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI

C.M.A.No.280 of 2026

Date: 23.06.2026

Dvs