

A RELIEF FOR PERMANENT INJUNCTION CANNOT BE GRANTED ON THE BASIS OF AN UNREGISTERED DOCUMENT OR AGREEMENT TO SELL

INTRODUCTION:

*The Apex Court in a recent decision in **Balram Singh vs. Kelo Devi**¹ observed that a relief for permanent injunction on the basis of an unregistered document or agreement to sell, could not be granted. The Apex Court further observed that a relief cannot be got indirectly which otherwise could not have been got in a suit for substantive relief.*

FACTS:

One Kelo Devi, the Respondent, had instituted a Suit for permanent injunction, before the Trial Court, to restrain the Appellant (the Defendant therein) from disturbing the Respondent's possession in the suit property ("**said Suit**").

The Respondent relied on an unregistered agreement to sell dated 23rd March, 1996 ("**said Agreement**") in the said Suit.

The Appellant had in turn filed a counter claim, seeking a decree for possession in the suit property before the Trial Court.

The Trial Court refused to grant the Respondent permanent injunction in respect of the suit property and dismissed the said Suit and allowed the counter claim filed by the Appellant on the ground that the Respondent could not prove the said Agreement. The Trial Court further held that the Respondent was in unauthorized possession of the suit property.

Being aggrieved and dissatisfied by the order of the Trial Court, the Respondent preferred an appeal before the First Appellate Court.

The First Appellate Court allowed the appeal and set aside the order of the Trial Court and

consequently decreed the said Suit against the Appellant.

Being aggrieved by the order of the First Appellate Court, the Appellant preferred an appeal before the Allahabad High Court, however, the Allahabad High Court confirmed the order of the First Appellate Court ("**Impugned Order**").

Being aggrieved and dissatisfied by the Impugned Order, the Appellant preferred an appeal before the Apex Court.

ISSUE FOR CONSIDERATION:

The main issue for consideration before the Apex Court was as follows:

Whether a permanent injunction could be granted on the basis of an unregistered agreement to sell?

SUBMISSIONS ON BEHALF OF THE APPELLANT:

It was submitted on behalf of the Appellant that the Respondent had filed the said Suit on the basis of an unregistered agreement to sell.

It was further submitted that an unregistered agreement to sell was inadmissible in evidence.

¹ Civil Appeal No. 2095 of 2022

It was further submitted that said Suit was filed only for permanent injunction and that the Respondent, by adopting clever drafting, did not seek any relief for specific performance of the said Agreement.

It was also submitted that as the Respondent could not get substantive relief for specific performance of the said Agreement, the Respondent was not entitled to a decree for permanent injunction on the basis of the said Agreement.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

It was submitted on behalf of the Respondent that an unregistered document could be used for collateral purposes.

It was further submitted that the First Appellate Court and the High Court had rightly granted a decree for permanent injunction restraining the Appellant from interfering with the possession of the Respondent.

JUDGMENT:

The Apex Court observed that the Respondent had merely instituted the said Suit for permanent injunction based upon an unregistered agreement. The Apex Court was of the view that such an unregistered document could not be admissible in evidence.

The Apex Court observed that the Respondent could not get relief indirectly which otherwise could not be got by the Respondent in a suit for substantive relief, which in the present case would have been for specific performance.

The Apex Court held that the Respondent could not even obtain a relief for permanent injunction on the basis of an unregistered document, more particularly when the Appellant had filed a counter claim for obtaining possession of the suit property, which was allowed by the Trial Court.

In view of the aforesaid, the Apex Court allowed the appeal by quashing and setting aside the Impugned Order and restoring the order of the Trial Court.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.