

MANDATORY INJUNCTION IS NOT A SHORTCUT FOR POSSESSION: SUPREME COURT REASSERTS DISCIPLINE IN CIVIL SUITS

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ABSTRACT

In India, the court cases related to property have been such that the dispute has become of the greater convenience of the parties and not the issue of right especially through the improper use of mandatory injunctions and the like instead of proper possession suits. The Sanjay Paliwal v. Bharat Heavy Electricals Ltd. case has been the supreme court's exclusive opportunity to tackle the matter by reaffirming the fundamental rules that govern the relief granted in equity. The court stated that when there is a dispute over both title and possession, the legal remedy of a suit for possession is the only one, and the mandatory injunction cannot be used to eliminate the strict rules established by law. The judgement issued by the highest court becomes all the more important in present times when the courts are under constant pressure to provide quick relief which, at times, can lead to the dispensing of procedural discipline. The court in this case asserted unambiguously that equitable remedies cannot be put above statutory guarantees or used with reduced evidentiary requirements. The ruling has, ultimately, strengthened the civil procedure's integrity by announcing that procedural law is not a hindrance but a safety net that ensures the impartiality and consistency of the property dispute resolution process. The ruling ultimately reinforces that procedural law is not an obstacle to justice but rather a prerequisite as it takes place through the appropriate legal channels where everyone is provided with sufficient protection.

Key Words: - Mandatory Injunction, Possession Suits, Civil Procedure, Supreme Court of India, Property Disputes.

INTRODUCTION

Disputes concerning property in India are seldom resolved by determining the mere ownership. It is all about discovering the right move. Disputes arising from civil litigation over the years have shown a tendency to be more influenced by the kind of relief that is asked for in the case than by the right claimed. One instance of this trend is the preference for injunctions over litigations for possession. Along with being quick and cheap, injunctions also tend to be less aggressive. However, they offer a great deal of convenience to the litigants who can get a decree that is equivalent to that in property recovery without having to prove their title and possession, which is a time-consuming and laborious process.

One of the cases that have come very close to this issue is the Supreme Court of India's Sanjay Paliwal v. Bharat Heavy Electricals Ltd.¹ ruling. The judgments do not suggest any changes in the legal theory nor do they bring to light anything new. Instead, they achieve something more profound. It enforces discipline. It tells the courts and the parties to remember that remedies are not alternative means to the ends but rather structured responses that are linked to the dispute's nature.

BACKGROUND AND THE LONG ROAD TO THE SUPREME COURT

The contention was over a piece of land which was a part of a larger khasra number in Haridwar. The plaintiffs maintained that they were the purchasers of the land by way of a registered sale deed and pointed out that the access to the public road on the eastern side was a must for the enjoyment of their property. They alleged that the company had put up a wall that obstructed this access.

The plaintiffs rather than going for a suit for possession or declaration of title opted to file a suit for mandatory injunction by asking for the wall to be removed. The lower court sided with plaintiffs. It determined that the plaintiffs had proved title and possession and the interference was enough to warrant a mandatory injunction. The first appellate court was of the same view.

The dispute could have been resolved at this point, like many others. However, the High Court in its second appeal took a different stance. It ruled that the building of the wall on the disputed

¹Sanjay Paliwal v. Bharat Heavy Electricals Ltd., 2026 INSC 61.

land was tantamount to dispossession and hence the proper course of action was a suit for possession. Additionally, the court highlighted the lack of evidence in terms of title and even the exact place where the wall was located. Therefore, the decree of injunction was set aside.

Subsequently, the plaintiffs came to the Supreme Court claiming that the High Court had gone beyond its limited jurisdiction and had incorrectly denied them relief.

THE LEGAL FAULT LINE BENEATH THE DISPUTE

The central issue in this case was a basic question. Is it possible for a plaintiff to get back control over the property in dispute through a mandatory injunction without having to ask for possession, even though both title and possession are contested?

The Supreme Court resolved this matter by going back to the basic principles. A mandatory injunction is an equitable remedy. Its main goal is not to settle complicated disputes of ownership. The phrase "legal remedies that the law clearly allows" is not meant to be construed as such. When dispossession is claimed, the law requires the plaintiff to file a suit to ascertain possession. This expectation is not a technicality but rather a legal safeguard.

The distinction between prohibitory and mandatory injunctions has been well established in Indian jurisprudence since the landmark case of *Dorab Cawasji Warden v. Coomi Sorab Warden*.² The Supreme Court in that case held that courts must exercise discretion with great caution before granting mandatory injunctions, as they compel positive action rather than merely preventing wrongful acts. The court emphasized that such relief should only be granted when the plaintiff's legal right is clearly established and the defendant's possession or title is not seriously disputed.

The Court thought about the nature of the lawsuit it was going to handle very thoroughly. The title had a very serious dispute over it. One of the two parts of the sale deed was signed by a tenant in perpetuity whose position regarding ownership transfer was very uncertain. Also, the possession was disputed, with each party claiming that they were entitled to it. Even the land that

² *Dorab Cawasji Warden v. Coomi Sorab Warden*, 1990 (2) SCC 117.

was being argued over and the position of the wall were not definite, as different measurements and unreliable reports were involved.

Under such conditions, the Court stated that a suit for injunction simpliciter is not legally appropriate. The granting of a mandatory injunction in this situation would be tantamount to indirectly restoring possession while avoiding the procedural and evidentiary requirements entailed in a possession suit.

THE STATUTORY FRAMEWORK AND ITS SIGNIFICANCE

The Specific Relief Act, 1963 provides a comprehensive framework for granting injunctions and possession remedies. The Act, in Section 38, discusses perpetual injunctions specifically and clarifies that they can be issued in order to secure the non-occurrence of an act against which the applicant has a right. However, Section 41 further explains that a mandatory injunction could be issued only if the act stricture is to be avoided and if monetary compensation would not give an adequate remedy.³

What is more, the statute makes a distinct separation between the actions for injunction and the actions for possession. In the case that a claimant is seeking to take over a piece of land or property with the help of the legal system, the only way is to file a suit for possession according to Order XXI of the Code of Civil Procedure, 1908, not via the back door of a mandatory injunction. This difference is not only a matter of procedure but it is the essence of the property disputes that must be resolved through our judicial system.

The legislative intent behind maintaining separate remedies for different kinds of disputes becomes apparent when one examines the evidentiary burden and procedural safeguards built into possession suits. In a suit for possession, the plaintiff must prove not only title but also prior possession or entitlement to possess. The defendant, on the other hand, gets full opportunity to contest these claims through detailed pleadings, evidence, and cross examination.⁴

WHY THE SUPREME COURT'S CORRECTION WAS NECESSARY

³ The Specific Relief Act, 1963, ss 38, 41.

⁴ The Code of Civil Procedure, 1908, Order XXI.

Among the most remarkable comments that the Supreme Court agreed with was the High Court's statement that it was odd for judges to send a wall for demolition without any definite indication of the location of that wall. This remark gives a hint of the court's deeper concern that was going through the judgment.

Equitable relief is to be granted with extreme care and very accurately. Courts can never order the removal of any buildings and rely on estimates or conjectures only. When identity and boundaries are not clearly defined, the issuing of a mandatory injunction may bring about the opposite situation of injustice rather than preventing it.

The principle that equity acts in personam and requires certainty in its application has been consistently maintained by Indian courts. In *Baldev Singh v. Manohar Singh*,⁵ the Supreme Court observed that when dealing with property disputes, courts must ensure that the subject matter of the suit is clearly identified and the relief sought is capable of precise execution. Vague or ambiguous decrees create enforcement nightmares and often lead to further litigation, defeating the very purpose of judicial intervention.

The Court's treatment of the subject of appellate jurisdiction was also a very important matter. According to the plaintiffs, the High Court had interfered with the very findings of facts which had been made by the lower courts and were thus concurrent with theirs. This argument was rejected by the Supreme Court and it was indeed a right decision. What was corrected was not a difference of opinion on the facts but a mistake of law. To issue an injunction contrary to a statute, in the presence of undisputed title litigation, and without any identification is a misapplication of the law. Such errors provide grounds for intervention even at the level of the second appeal.

This ruling aspect strengthens the notion that the judiciary is responsible for its decisions. The practice of appellate restraint should not be viewed as an invitation for the lower courts to make decisions that are not legally supported.

IMPLICATIONS FOR CIVIL LITIGATION PRACTICE

⁵ *Baldev Singh v. Manohar Singh*, 2006 (6) SCC 498.

The consequences of this ruling are not just limited to the parties directly involved, but are very practical. Across the country civil lawyers have often recommended that their clients turn to injunctions as a fast and easy-to-manage solution to the problem of possession which, though it appears attractive at first sight, in fact destroys the whole legal process and causes complications for the future.

It is with great concern that one observes the trend where the plaintiffs have been obtaining injunctions that nearly turn out to be nothing less than decrees of possession, while the defendants who are in fact the rightful possessors end up losing the safeguards that usually accompany the possession proceedings. The existing safeguards are there for a good cause. For a situation where a defendant is being dispossessed, the defendant must be given an opportunity to contest the plaintiff's claim of title and possession by going through the lengthy but at the same time detailed and systematic procedure provided for such kinds of suits.

To add on, the misuse of injunctions makes it hard to tell which parties have a rightful claim to the properties and creates a lot of confusion in land transactions and land records. If a person is allowed to remove a building or restore access without having to show their right to the property, this may increase the number of cases where people try to intimidate their opponents through litigation rather than resolving the matter in a court. The judgment of the Supreme Court thus acts as an important first line of defense against such legal abuse.

A PERSONAL VIEW: WHY THIS JUDGMENT MATTERS

To look at it from a larger point of view, the ruling of the court is one of the strongholds of the civil justice system, which is, albeit indirectly, a positive effect of its original position. The ruling contributes to the dismantling of the most powerful idea of procedural law that it is an obstacle and, thus, it discloses the need for a new consideration of law concerning its structure. The current cases of possession recovery via injunctions are, in truth, making the already very fragile and poorly defined area of civil remedies even more exposed and thus, this will further decrease the influence of the courts over it.

This whole legal process for possession is a defense mechanism and not a form of punishment. It guarantees that the defendants are not evicted from their residences without a full trial. It restrains the courts from taking ambiguous and unenforceable actions, thus leading to chaos. It

also maintains the credibility of the legal system by demonstrating that the breaches of basic rights should be taken care of and not indirectly, through the lengthy process of debate on the right to adjudicate.

The judges decision to decide the case on merit and not to into account the plaintiff's motive to gain sympathy is really commendable. The differentiation drawn in this instance is crucial. As the role of the court is to ensure that justice is served as per law and not to the comfort of anyone.

This ruling also signifies the role of judges in a democracy, as the speed and efficacy in resolving disputes is necessary but it should not come at the cost of procedural fairness. The checks and balances that are part of our civil procedure are there to prevent wrong dispossession. If the courts ignore these safeguards for the sake of speed, the masses will lose the confidence in the justice system.

Moreover, the judgment explicitly states that the legislations depending on different reasons offer different remedies. An injunction is merely a way to keep things as they are or to stop harm flowing; it does not, however, go to the heart of the difficult issues of title and possession. If these remedies are covered under one head and not clearly separated, then the entire hierarchy of the civil law system gets confused.

CONCLUSION

The ruling of the Supreme Court in Sanjay Paliwal vs. Bharat Heavy Electricals Ltd. is a major reaffirmation of the basic principles of civil remedies in Indian law. It has been made very clear by the Court that in cases of conflicting title and ownership, mandatory injunctions cannot take the place of possession suits, thereby bringing much-desired clarity and organization to this segment of the civil litigation process.

This ruling does not create any new legal doctrines but instead, it enhances the application of old ones. It requires the stakeholders to work together and be informed that the civil procedure is very carefully planned, and that every remedy has its specific role in the whole system. Attempts to circumvent this structure through creative pleading or convenient characterization of disputes do disservice to the rule of law.

After the decision regarding property disputes lawyers will have to carry out very honest investigations into disputes and the remedies that should be respectively sought. A lot more thorough examination of claims by the courts and ensuring that the relief given is in accordance with the disputes and the evidence presented will have to be done. The litigants will be taught that there are no shortcuts through civil litigation when the basic rights are at stake.

The Supreme Court has very clearly stated that the mandatory injunction shall in no way be interpreted as a means of possession. The parties to the dispute will have to change their minds according to the very nature of the conflicts. It will be the function of the Courts to determine remedies that will be proper for the disputes in question. The ruling thus not only enhances the civil justice system, but it also ensures that procedural law continues to play its primary role in the protection of fairness and legal certainty.