
(2021) 04 MAN CK 0007

In the Manipur High Court

Case No : MFA No. 1 Of 2017 In Judl. Miscellaneous Cases No. 288 Of 2017

Yogita Jain

APPELLANT

Vs

Mahendra Kumar Jain

RESPONDENT

Date of Decision : 20-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 133
Transfer of Property Act, 1882 — Section 60
Specific Relief Act, 1963 — Section 6, 31, 39
Code Of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2

Citation : (2021) 04 MAN CK 0007

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : T. Rajendra, H. Nabachandra

Final Decision : Allowed

Judgement

[1] Heard Shri T. Rajendra, learned Advocate appearing for the appellants in MFA No.1 of 2017 and the respondents in MAF No.1 of 2021 while Shri H. Nabachandra, learned Advocate appearing for the appellant in MAF No.1 of 2021 and the respondent in MFA No. of 2017.

[1] Since the above appeals have arisen out of a similar set of facts, the same are being disposed of by this common judgment and order. For the convenience and in order to avoid any confusion, the parties in these two appeals have been described as the appellants/ respondents and the respondent/ appellant in line with the cause title as mentioned in the Misc. First Appeal being MFA No.1 of 2017.

[3.1] The MFA No.1 of 2017 preferred by the appellants/ respondents, is directed against the judgment and order dated 05-08-2017 passed by the learned Civil Judge, Senior Division, Imphal West (hereinafter referred to as "the learned Civil Judge") in Judl. Misc. Case No. 288 of 2017 in Original Suit No.47 of 2017. The respondent/ appellant as the plaintiff filed the said O.S No.47 of 2017 praying for

a decree for the recovery of possession of the suit premises; a decree for the declaration that the sale deed dated 15-01-2016 is void and a decree for permanent injunction restraining the appellants/ respondents from entering the suit land.

[3.2] The averments made in the plaint are, in short, that in the last part of December, 2015, the respondent/ appellant borrowed a sum of Rs.45,00,000/- from the appellants/ respondents by offering a mortgage of the suit land, for which he signed on some papers with the request to prepare a mortgage deed and left for Jaipur and returned on 23-01-2016. On his return, he was informed by the appellants/ respondents that the mortgage had been completed and registered, to which he remained contented with the intention to repay the amount. However, on 09-06-2017, the appellants/ respondents told him to vacate the suit land.

[3.3] On a discreet enquiry, the respondent/ appellant discovered that a mutation order dated 02-02-2016 in Mutation Case No.158/SDC had been passed on the strength of a fabricated sale deed and being aggrieved by it, he filed a revision being Misc. Case No.41 of 2017 along with an application for condonation of delay in filing thereof.

[3.4] The respondent/ appellant further discovered that in order to evict him from the suit land on the allegation that he was an unauthorised occupant, an application was submitted by the appellants/ respondents to the Deputy Commissioner, Imphal West who directed the SDM, Imphal West to make an enquiry and submit a report thereof. On 22-06-2017, the respondent /appellant filed a writ petition being WP(C) No.451 of 2017 before this Court challenging the proceedings initiated by the Deputy Commissioner, Imphal West. On the same day, a copy of the order dated 19-06-2017 passed by the SDM under Section 133 of Cr.P.C was served upon him which directed him to vacate the suit land and remove the structure by 25-06-2017. Being aggrieved by the said order, the respondent/ appellant filed a Cril. Revision No.8 of 2017 wherein this Court passed an order dated 30-06-2017 to the effect that till 05-07-2017, he should not be evicted from the site in issue which was extended till 07-07-2017 when this Court ordered that the SDM might proceed with the proceedings but no demolition should be undertaken without the leave of the Court.

[3.5] In the meantime, on 05-07-2017, the appellants/ respondents with about 20/30 persons took the law in their hands; stormed into the suit land; destroyed and stole valuable articles. During the whole night, they continued the crime by locking the door and by putting ply board. Thus, the appellants/ respondents forcibly evicted the respondent/ appellant from some portions of the building which are described as Schedule-C and from that night, the appellants/ respondents had taken forcible possession of the suit land. The respondent/ appellant submitted a complaint to the DGP, Manipur with a copy endorsed to the Superintendent of Police, Imphal-West but to no effect which compelled his wife to approach the Hon'ble Chief Minister, Manipur by way of a representation dated

07-07-2017. But no action was taken nor was an FIR registered by the police against the appellants/ respondents. The respondent/ appellant approached this Court by filing a Cril. Petition No.17 of 2017 wherein this Court vide its order dated 14-07-2017 directed the police to look into the matter and as the police failed to take any action, a contempt case (Cril) No.1 of 2017 was filed by him

[3.6] Along with the suit, the respondent/ appellant filed an application being Judl. Misc. Case No. 288 of 2017 for grant of mandatory ad-interim injunction order to restore possession of the suit premises in his favour as on 05-07-2017 and also to restrain the appellants/ respondents from entering into the suit premises; disturbing the peaceful possession and enjoyment of the same by him and executing any sale deed, gift deed or mortgage deed in respect of the suit premises till the disposal of the suit.

[4.1] The Appellants/ respondents contested the suit and misc. case by filing written statement and written objection respectively wherein they have contended that the suit land and the structure standing thereon were transferred by the respondent/ appellant by executing a registered sale deed dated 15-01-2016 and that the respondent/ appellant who is the paternal uncle of the husbands of the appellants and his family members were allowed to stay for some time in the suit land on humanitarian ground. It has further been contended by them that at any point of time, the respondent/ appellant never borrowed a sum of Rs.45,00,000/- (Rupees forty five lakhs) from them and never offered the suit land for mortgaging as a security for repayment of the loan amount. The Imphal Municipal Corporation vide its notice dated 30-06-2017 ordered for demolition of the building of the appellants/ respondents within a period of 30 days from the date of the receipt of it by strictly observing the conditions mentioned therein. The Executive Engineer, Building Division No.11, PWD, Manipur vide a report dated 05-07-2017 informed the SDO, Imphal-West that the building was leaning towards Hotel Yaiphaba, Thangal Bazar and gave an observation that the inclination had also been gradually increased after the earthquake occurred on 04-01-2016 and as the conditions of the existing building were structurally very unsafe, the only option was to demolish the existing building by observing the prevalent of bye-laws of the Imphal Municipal corporation.

[4.2] The learned Civil Judge after hearing the parties, was pleased to pass a judgment and order dated 05-08-2017 in Judl. Misc. Case No.288 of 2017 ordering that the respondent/ appellant be restored the possession of the suit premises as it was on 05-07-2017 by evicting the appellants/ respondents therefrom and that the appellants/ respondents, be restrained from entering into the suit premises till disposal of the suit. Being aggrieved by the judgment and order dated 05-08-2017 of the learned Civil Judge, the appellants/ respondents filed a Misc. Civil Appeal (MCA) Case No.14 of 2017 before the District Judge, Imphal West which passed an order dated 07-08-2017 staying the judgment and order dated 05-08-2017 passed by the learned Civil Judge. However, the learned

District Judge vide its order dated 09-08-2017 returned the appeal to the appellants/ respondents to approach this Court, if so desired on the ground that it had no pecuniary jurisdiction to entertain the appeal and accordingly, the interim stay order granted by it, was vacated.

[4.3] Having no alternative, the appellants/ respondents, preferred this appeal against the judgment and order dated 05-08-2017 on the inter-alia grounds that the learned Civil Judge failed to appreciate both the law and the facts; that the learned Civil Judge came to the conclusion erroneously that the respondent/ appellant was occupying the building standing inside the suit land before the night of 05-07-2017; that the order dated 19-06-2017 passed by the learned SDM had nothing to do with the present case, as a case being Cril. revision petition No.8 of 2017 was then pending before this Court; that this Court while passing the order dated 10-07-2017 had not given any protection regarding the possession of the building by the respondent/ appellant, rather this Court directed not to demolish the building without the leave of this Court and that if a mandatory injunction was to be granted on an interlocutory application, it could have been granted only to restore the status quo and not to establish a new state of things, differing from the state which existed at the date when the suit was instituted.

[5] On 14-08-2017, this Court while issuing notice to the respondent/ appellant, directed that this appeal be listed on 16-08-2017 for consideration of interim prayer. On 16-08-2017, this Court after hearing the counsels appearing for the parties, passed an order staying the operation of the judgment and order dated 05-08-2017 on the ground that the directions contained therein that the possession of the suit land be restored to the respondent/ appellant as it was on 05-07-2017 and that the appellants/ respondent be restrained from entering into the suit land, would tantamount to granting the main relief.

[6.1] During the pendency of the MFA No.1 of 2017, this MAF No.1 of 2021 was preferred by the respondent/ appellant which is directed against the judgment and order dated 08-12-2020 passed by the learned Civil Judge in Judl. Misc. Case No.230 of 2020 in O.S No.40 of 2020. This suit was filed by the respondent/ appellant under Section 60 of the Transfer of property Act for a decree of redemption allowing him to repay the sum of Rs.45,00,000/- (Rupees forty five lakhs) which was borrowed by him from Shri Shobhag Chand Jain, by the amount Rs.1,00,00,000/- (Rupees one crore); a decree for giving direction to the competent authority to record his name in the records of rights in respect of the suit land and a decree for permanent injunction restraining the appellants/ respondents from disturbing his peaceful possession of the suit land.

[6.2] According to the respondent/ appellant, the immediate cause of filing the suit was that after the order dated 16-08-2017 having been passed by this Court in MFA No.1 of 2017, the relationship between them became completely strained and fighting took place between them on three occasions. Firstly, on 30-08-2020, when the respondent/ appellant was at home with some of his friends, the

appellants/ respondents along with some persons came to his house and started fighting resulting injury on his part and his wife. Complaints were lodged by both the parties with the result that the respondent/ appellant and his wife along with some unknown persons were arrested by the police but they were released on bail on 02-09-2020 by the CJM, Imphal West. Secondly, on 14-09-2020, there was a fight between them, because of which the respondent/ appellant filed a complaint before the CJM, Imphal West and at about the same time, the appellants/ respondents filed an application for cancellation of the bail granted to the respondent/ appellant. As the respondent/ appellant and his wife were out of Manipur, a police report in that regard was submitted. Thirdly, another fight took place on 08-11-2020 which prompted the respondent/ appellant to submit an application to the OC, Imphal City by way of speed post but no action was taken thereon.

[6.3] Along with the said suit, the respondent/ appellant filed an application being Judicial Misc. Case No.230 of 2020 for grant of temporary injunction restraining the appellants/ respondents from trying to dispossess him from the suit land. The learned Civil Judge vide its order dated 08-12-2020 considered and disposed of it by observing that it is too early for it to decide the conflicting rights of the parties, as two suits are still pending before it. So far the balance of convenience and the irreparable injuries are concerned, the same are not seen to be in favour of the respondent /appellant for the reason that the order dated 05-08- 2017 passed by it, did restore the possession of the suit land but it was stayed by this Court vide order dated 16-08-2017. It has further been observed that given the danger to human life at hand, it cannot help but marvel at the tenacity of the parties in claiming the possession of unsafe building which could collapse at any time and cause serious injuries and fatalities.

[6.4] Against the order dated 14-01-2020 of the learned Civil Judge, the respondent/ appellant prefer a MCA No.10 of 2020 before the District Judge, Imphal West which was admitted on 15-12-2020. After the necessary action towards the process being taken by the respondent/ appellant, on 14-01-2021 the District Judge passed an order stating that it had no pecuniary jurisdiction with the advice that he might prefer an appeal before this Court. A certified copy of the order dated 14-01-2021 was applied on 19-01-2021 which was delivered on 01-02-2021 and thus, on 18-02-2021, the respondent/ appellant could file the present appeal before this Court.

[7.1] It has been submitted by Shri T. Rajendra, learned Advocate appearing for the appellants/ respondents that the learned Civil Judge was not justified, when it passed the impugned order under the provisions of the Order 39 Rule 1 of CPC and that the learned Civil Judge committed an error while passing the impugned order which would amount to granting the final relief without the trial being conducted by it. In support of his contention, he has relied upon the decisions rendered by the Hon'ble Supreme Court as well as the Hon'ble Gauhati High Court. The first decision is the one rendered in Union of India & ors Vs. M/S

Modiluft Ltd, AIR 2003 SC 2218, wherein the Hon'ble Supreme Court held:

"16. Nextly, we notice that the High Court has granted a relief by way of an interim order which we think it could not have done at the interim stage for more than one reason. The writ petition in question was filed challenging an order made by the Government in revision. The subject-matter of the said petition pertains to the liability of the respondent to pay the tax. In the said writ petition, the respondent has sought an additional prayer by way of a direction to the respondent to grant a NOC to relaunch its airline operations. We do not want to say at this stage that such joinder of two separate causes of actions could be maintained in a writ petition like the one that is filed before the High Court by the respondent. It should be noticed that the authorities empowered to permit relaunching of the airline's operations were not before the Court which we are told is the Department of Civil Aviation. Be that as it may, since the relief as termed in the writ petition being a final relief, we think the same could not have been granted by the High Court at an interlocutory stage. But the learned counsel for the respondent contends that the said prayer is only an incidental prayer because the Civil Aviation authorities have refused to grant necessary permission to relaunch the airline's operations to the respondent only because the customs department which is a respondent before the High Court, has refused to give a NOC therefore in effect what is sought for before the High Court is only a direction to the customs authorities to issue a NOC which in turn may be used by the respondent to obtain the required permission from the competent authorities to relaunch their airline operations. Be that as it may, even accepting the argument of respondent, it is to be noticed that even a NOC from the customs authorities can be directed to be issued by the High Court only after it comes to the conclusion that the amount as determined by it has been paid by the respondent and not by an interim order otherwise it would amount to the granting of a final relief in favour of the respondent who has suffered adverse orders from the authorities below, even before the writ petition is finally decided, and in the event of the ultimate dismissal of the writ petition the respondent would gain an undue advantage in spite of its default and might even give rise to other questions in equity including rights of the third party."

Secondly, in *Bruce Vs. Silva Raj & ors*, 1987 (Supp) SCC 161, the Hon'ble Supreme Court held that it is well settled that injunction can be obtained on the basis of possession. Thirdly, in *Shri Sishir Das Vs. State of Tripura & ors*, (1986) 2 GLR 83, the Hon'ble Gauhati High Court had agreed with the law laid down by the Calcutta High Court and Rajasthan High Court to the effect that injunction is granted only to restore status quo and not granted to establish a new state of things, differing from the state which existed at the date when the suit was instituted. Fourthly, in *Brahmaputra Byam Sangha & anr. Vs. Shrew Prasad Nimadia & ors.*, (1993) Supp. (1) Gauhati Law Reports 119, the Hon'ble Gauhati High Court has held that the temporary injunction can be granted under the provisions contained in Order 39 Rule 1 and 2 of CPC but a party insisting on injunction must first establish his right to the property and that where in a

situation, the defendant threatens to dispossess the plaintiff or otherwise cause injury to him in relation to a property in a suit, injunction can be granted.

[7.2] On the other hand, relying upon the decisions rendered by the Andhra Pradesh High Court and Rajasthan High Court, Shri H. Nabachandra, learned Advocate appearing for the respondent/ appellant has supported the judgment and order dated 14-01-2020 passed by the learned Civil Judge. In *Habeeb Khan & ors. Vs. Valasula Devi & ors.*, AIR 1997 AP 53 wherein the validity and correctness of a sale deed was one of the subject matters in issue, the Hon'ble Andhra Pradesh High Court held that the sale deed Ex.B/3 was in reality an anomalous mortgage. In *Niranjan Singh & anr. Vs Rajesh Kumar*, 2013(4) CCC 369 (Raj.), wherein a son filed a suit against his father, the Rajasthan High Court held that since the son has sought specific performance of the agreement allegedly executed by his father, there are triable issues and that it would be in the interest of justice, if the father is restrained from transferring or selling the property in question pending the suit.

[8] It is not in dispute that the OS No.47 of 2017 was filed by the respondent/ appellant against the appellants/ respondents under Section 6 and 31 of the Specific Relief Act, 1963 for a decree for the recovery of possession of the suit premises; a decree for the declaration that the sale deed dated 15-01-2016 is void and a decree for a permanent injunction restraining the appellants/ respondents from entering into the suit land and from disturbing the peaceful possession and enjoyment of the same by him. The reason for filing the suit was that while the respondent/ appellant was in possession of the suit land, the appellants/ respondents had forcibly taken possession thereof. The averments made in his plaint also have shown that the respondent/ appellant was not in possession of the suit land at the time, when the suit was filed by him. Denying the averments made in his plaint, it has been stated by the appellants/ respondents in their written statement that the suit land was purchased by them on the basis of a sale deed dated 15-01-2016 duly executed and registered and that while they were in possession, they had allowed the appellant/ respondent being their uncle, to stay therein.

[9] The application being Judl. Misc. Case No.288 of 2017 under Order 39 Rule 1 of CPC was filed along with the said suit praying for issuing a mandatory ad-interim injunction to restore the possession of the suit premises in favour of the respondent/ appellant as on 05-07-2017 and to restrain the appellants/ respondents from entering into the suit premises. Order 39 Rule 1 of CPC reads as under:

"1. Cases in which temporary injunction may be granted.- Where in any suit it is proved by affidavit or otherwise -

(a) That any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) That the defendant threatens, or intends, to remove or dispose of his property with a view to defrauding his creditors,

(c) That the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders."

This order of CPC confers power upon the Court to grant a temporary injunction in a suit where any of the circumstances as mentioned therein is proved by affidavit or otherwise. An injunction is a specific order of the court forbidding the commission of a wrong threatened or the continuance of a wrongful course of action already begun. It has been held by the Hon'ble Supreme Court in a catena of decisions that while passing an interim order of injunction under Order 39 Rule 1 & 2, the Court is required to consider the following:

(a) Whether there is a prima facie in favour of the plaintiff;

(b) Whether the balance of convenience is in favour of passing the order of injunction and

(c) Whether the plaintiff will suffer irreparable injury if an order of injunction would not be passed as prayed for.

The grant of injunction is a discretionary relief. The principles on which injunctions can be issued are well settled. The power to grant injunction being discretionary, it shall be used by the Court judicially and if necessary, sparingly in accordance with the need of the facts of each case.

[10] From the suit instituted by the respondent/ appellant, it is quite evident that there are three prayers made therein, while there two prayers in the application, filed along with it, under the provisions of Order 39 Rule 1 of CPC-one, to issue a mandatory ad-interim injunction to restore the possession of the suit premises in his favour as on 05-07-2017 and two, to restrain the appellants/ respondents from entering into the suit premises. The second prayer can be granted only after the first prayer having been granted by the Court. The first prayer is to grant a mandatory injunction under Order 39 Rule 1 of CPC which provides for grant of temporary injunction in respect of three circumstances-one, where the property in dispute is in danger of being wasted, damaged or alienated by any party of the suit; two, where the defendant threatens or intends to remove or dispose of his property with a view to defrauding his creditors and three, where the defendant threatens to dispossess the plaintiff or otherwise cause injury to him in relation to the property in dispute. The case of the respondent/ appellant as aforesaid does not fall under any of the above circumstances. It is neither the

case of the respondent/ appellant that the suit land is in danger of being alienated by the appellants/ respondents nor is it that the appellants/ respondents have threatened to dispossess him of the suit land. The case of the respondent/ appellant, in short, is that he was the owner in possession of the suit land which is mortgaged to the appellants/ respondents as a security for repayment of the loan amount which he borrowed from them and the appellants/ respondents had taken the suit land forcibly from him. On the other hand, the case of the appellants/ respondents is that they purchased the suit land from the respondent/ appellant, for which the sale deed dated 15-01-2016 was executed by him, the validity and correctness of which is under challenge in the suit and is yet to be considered and decided by the learned Civil Judge. The first suit was filed by the respondent/ appellant for recovery of possession of the suit land.

While the first suit is pending, he did file the second suit for redemption of mortgage. Both the suits are pending for trial before the learned Civil Judge. The mandatory injunction as claimed by the respondent/ appellant in the application, is similar to the first prayer made in the plaint. Without the trial being conducted and the issues involved therein being decided by the learned Civil Judge, the first prayer made in the plaint cannot be granted with the result that a mandatory injunction cannot be granted at all. In other words, this Court is of the view that the grant of such a mandatory injunction is nowhere contemplated under the provisions of Order 39 Rule 1 of CPC. The power of the Court for grant of mandatory injunction is provided under the provisions of Section 39 of the Specific Relief Act, 1963 subject to the consideration of the elements mentioned therein but the same have not been invoked by the respondent/ appellant while filing the application. However, the learned Civil Judge while passing the impugned judgment and order, has ordered that the respondent/ appellant be restored the possession of the suit premises as it was on 05-07-2017 by evicting the appellants/ respondents therefrom and that the appellants/ respondents be restrained from entering into the suit premises till disposal of the suit, which appears to be incorrect and hence, is not sustainable in law. In other words, the learned Civil Judge has no power under Order 39 Rule 1 of CPC to grant such a mandatory injunction, as prayed for in the application. On top of that, the learned Civil Judge has committed an error for the reason that the mandatory injunction granted by it would amount to granting the final relief as has been held by the Hon'ble Supreme Court in *Union of India Vs. Modiluft Ltd.*, (2003) 6 SCC 65 referred to hereinabove; *UP Junior Doctor's Action Committee Vs. Dr. B. Sheetal Nandwani*, 1992 Supp (1) SCC 680; *UP Vs. Ram Kushi Devi*, (2005) 9 SCC 733 etc., as it is not known as to when the trial would be completed by the learned Civil Judge. The decisions relied upon by the counsel appearing for the respondent/ appellant will have no application, as the facts of that cases are not identical to that of the present case. Moreover, this Court is not bound by any decision rendered by any other High Court except its persuasive value.

[11] On 08-04-2021, when the above appeals were being heard, it was brought to my notice an order dated 18-03-2021 passed by this Court in Cril. Revision

petition No.5 of 2021 which appears to have been filed by the respondent/appellant questioning the conditional order date 05-03-2021 passed by the SDM, Imphal-West. By the said order dated 18-03-2021 of this Court, it has been directed that status quo as on that date be maintained by the parties. But it is not clear as to whether the status quo directed to be maintained by the parties is in relation to the structure standing in the suit land, 75% of which is stated to have been demolished in terms of the order dated 05-03-2021 of the SDM or in relation to the possession of the suit land. If the status quo as directed by this Court is confined to the demolition of the structure standing in the suit land, it is all right and it may not give rise to any problem for the present. However, it is open to the parties to approach this Court seeking a clarification thereon so as to avoid any legal complication in the matter. So far as the possession of the suit land is concerned, it may be noted that OS No.47 of 2017 was instituted by the respondent/ appellant before the learned Civil Judge which passed the judgment and order dated 05-08-2017 directing that the possession of the suit land be restored to him and that the appellants /respondents be restrained from entering into the suit land. The fact that the said suit was filed by the respondent/appellant for the recovery of possession of the suit land, has shown prima facie that he was not in possession of the suit land at the time when the suit was filed by him. The said judgment and order dated 05-08-2017 of the learned Civil Judge was stayed by this Court vide its order dated 16-08-2017 with the result that the appellants/ respondents would be deemed to have been in possession of the suit land.

[12] In view of the above and for the reasons stated hereinabove, the MAF No.1 of 2017 is allowed and consequently, the judgment and order dated 05-08-2017 passed by the learned Civil Judge is quashed and set aside with the following directions:

(a) The learned Civil Judge, Senior Division, Impha-West shall proceed with the trial of the Original Suit No.47 of 2017 and Original Suit No.40 of 2020, without any further delay, after the receipt of the original records thereof from this Court and that too, after proper notice being given to the parties and their Advocates;

(b) The Registry of this Court is directed to return the original records, pertaining to O.S No.47 of 2017 received vide office note dated 06-09-2017 of the Registry, to the learned Civil Judge, Senior Division, Imphal-West at the earliest possible;

(c) In view of this judgment and order allowing the MFA No.1 of 2017, the MAF No.1 of 2021 stands disposed of;

(d) It is open to the parties to move the learned Civil Judge, Senior Division, Imphal-West for passing any appropriate interim order/(s) including any order relating to the possession of the suit land in accordance with law and if required, it can be done so on the basis of the report of a local commission appointed by the Civil Judge for the purpose.

There shall be no order as to costs.