

## Pratap Pawar Vs Priya Pawar

**Court:** Delhi High Court

**Date of Decision:** July 23, 1996

**Acts Referred:** Benami Transactions (Prohibition) Act, 1988 " Section 4(1)  
Civil Procedure Code, 1908 (CPC) " Order 39 Rule 1

**Citation:** (1996) 3 AD 862 : (1996) 63 DLT 704 : (1996) 38 DRJ 636

**Hon'ble Judges:** K. Ramamoorthy, J

**Bench:** Single Bench

**Advocate:** Pinki Anand, P.P. Juneja and Atul Verma, for the Appellant;

### Judgement

K. Ramamoorthy, J.

(1) is No. 207/95 is filed by the plaintiff under Order Xxxix Rules 1 and 2 for injunction restraining the first defendant from alienating the suit

property and for injunction restraining the first defendant from dispossession the plaintiff. The case of the plaintiff is that he is the husband of the

First defendant. His case is that he is the real and beneficial owner of the plot though the property was allotted in favor of the first defendant. The

plaintiff applied for the allotment to the second defendant to the D.D.A. under Self- Financing Scheme by depositing a sum of Rs. 15,000.00 in

1981. The said flat was allotted by defendant no.2 in 1984 and possession of the same was handed over in 1989 to Ms. Uma Chandra, sister of

defendant no.1.

(2) A total amount of Rs. 4,00,000.00 being the consideration for allotment was paid in installment by the plaintiff. The plaintiff has got his

telephone connection in August 1990. The telephone Number is 689 3224. The plaintiff is residing in the flat since 1990 Along with his widowed

sister, Parvati Pawar. On 8.12.1994, the first defendant forced the plaintiff out of the matrimonial home in U.K. where they were living.

(3) It is the case of the plaintiff that the first defendant was treating him with cruelty and he was put to a great hardship and he was also physically

attacked by the First defendant. The first defendant moved the English Court against the plaintiff and the plaintiff was unable to deal with the

extreme provocation and humiliation by the defendant No. I came to India in 1994 and since then, has been living in the flat. The first defendant is

trying to dispossess the plaintiff. On the allegations the plaintiff has come forward the relief of declaration and for injunction.

(4) The first defendant (wife) has filed the written statement repudiating the claim of the plaintiff. Her main case is that the suit is liable to be

dismissed under the provisions of. Section 4(1) of the Benami Transactions (Prohibition) Act, 1988.

(5) The plaintiff and the first defendant have two children, a daughter and a son.

(6) The plaintiff has filed the following documents:

1. Police complaint dated 4th January, 1995. 2. Challan dated 10th July, 1985 3. Challan dated 8th March, 1986 No. 11324 4. Letter dated 31st

March, 1986. 5. Letter dated 9th November, 1994. 6. Agreement dated 26.2.1991 Along with English translation. The plaintiff has filed another

set of documents which are as follows: 1. Telephone Bill of telephone No. 6892758 2. Copy of letter dated 26.4.1995 by the defendant No.1's

mother. 3. Medical Certificate of Dr. Bhatnagar dated\_\_\_\_\_ April, 1995. 4. Telegraphic notice by the plaintiff. 5. Challan dated 10.7.1985 6.

Receipt dated 16.1.1990. Copy of Bank statement of State Bank of India dated 20th June, 1985. 8. Copy of divorce petition filed at Indore. 9.

Copy of affidavits dated 16.6.1995 and 12.9.1995 filed at England Court. 10. Affidavit of Asawari Pawar daughter of plaintiff filed in the U.K.

Court.

(7) In the typed set of papers filed by the plaintiff the plaintiff had. filed a copy of the affidavit of Asawari Pawar daughter of plaintiff and the First

defendant in the court of U.K. for the purpose of appreciating the case of the plaintiff for the grant of injunction. Affidavit of the daughter teas to be

extracted. Therefore the same as follows:

Affidavit of Asawari Pawar daughter of Pratap Pawar. 1. That I am the daughter of Shri Pratap Pawar and Mrs. priya Pawar. The marriage has

had a. lot of problems because of my mother's ill treatment and now it. has gone to the stage that several matters are pending in the Courts. I am

affirming this affidavit being the eldest child and the only daughter to give a complete and true picture regarding the disputes created by my mother.

2. Since I was a child I have seen my father suffering due to my mother's selfish and cruel nature. Even though my father encouraged her and

daughter dancing and promoting her professionally, she tried to ruin his professional career and his assignment by deliberate interference and highly

unreasonable demands. Even in public she would fight like a illiterate village woman with the sole purpose to humiliate my father who is a thorough

professional and highly reputed in the filed of art. 3. My father on the other hand always adjusted and accommodated for the same of children

including me and my brother Prashant. My mother was extremely violent and cruel to me and my father who tried to present good appearance to

the public. My brother Prashant was born 7 years after i.e. in 1972. He is suffering, but is not understanding the implication of the disputes. 4. I

have read the allegations made against my father which are completely false and incorrect. He has always been and is the bread winner of the

family and gave his children and wife the most comfortable life possible. Even in the West Indies where my father had gone only for a professional

assignment as a Cultural officer he provided full time amenities which were in accordance with the status of the highest officials of the country. He

always got a lot of presents, took care of us, got us good clothes, spend a lot of time on us. Inspire of being a busy and prominent professional; he

was and is a very good father and husband. She always was given the best of clothes and jewellery. The entire valuables given by my father and

jewellery are held by with the help of her sister Mrs. Uma Chandra. 5. Firstly in Guyana and later at Trinidad, my father did his utmost to try and

get a job for my mother to teach dancing so as to permit her professionally. My mother had a very bad reputation there regarding her relationship

with a young man. Also she had total access to my father's money and spend it extremely. On account of her ill treatment there was a lot of tension

but my father finally forgave her on account of the children and she promised that she would not misbehave in the future. 6. Even though she kept

accusing my father of being violent, it is she who used to beat him constantly for no reasons. She is the one who used to attack my father

physically. 7. In the presence of my brother and myself in July, 1991 she hit my father violently with the shoes. It was totally humiliating for my

father considering this happened in the presence of the children. However, instead of taking any action against my mother or calling the Police for

our sake my father left the home. My brother Prashant then insisted that she apologise and with great difficulty on his persuasion, my mother

apologised for her ill treatment and persuaded my father to return home. Of course, she promised that she would not repeat such things in future. 8.

In 1980 we came to London as my father was in high demand on account of the fact that he was the only Artist available with his experience and

expertise and qualification. He was the man who won all the Awards and contract and my mother and we were all dependents. 9. In London again

having a lot of time in hand. and complete access of the money which my father earned. My mother got into company of the several single western

ladies who kept encouraging her to take advantage of the English law by devious means. They encouraged her to try and divert funds from my

father and also to spoil his professional contracts. I warned him but my father is too gentleman a person to believe such awful. 10. My mother had

a lot of fight and arguments followed by her foreign outburst in our presence in July 1991. In the meanwhile she did not contribute a single penny

towards the household or any of the house hold expenses. My father got nothing from her but she on the other hand constantly demeaned him in

public. 11. In 1992 she mischievously and deliberately formed a dance company which directly clash with the interests of my father"s company

"Triveni". My mother called the company "Pushaplata", after her mother"s name and her family support of in all her devious ideas. After forming

this company, she stole music, costumes ,audios, videos and photos worth millions of pounds recorded and owned by my father and developed

with is skill and professional expertise and used them. 12. Apart from this, she physically and mentally tortured my father to such an extent when I

was out for some work and my brother had also gone out she deliberately provoked my father to such an extent that he took over does of sleeping

pill to kill himself. She provoked him by abusing him alleging that he was having affairs with other women, insulted his family, threatening him

professionally also to destroy the family. He only recovered next morning in the Hospital. Just prior to this provocation, my father had given a gold

chain to my mother on her birthday. My mother was not even concerned about my father"s health. My father was saved by some student"s father.

My mother when told by my father that he was going to kill himself on account of her maltreatment and said that he should wait that she was not at

home so that she should not be blame. She has continued to provoke my father so that something happens and she gets all the monies and assents

as she is totally selfish and money minded. 13. When I left to London on 31st October, 1992 she stole my cash money of about Uk Pounds 2,500

which the building society Bradford and Bindley had released after my return to India, I had authorised my father to collect and keep the money on

my behalf. This happened in February 1994. She deliberately came earlier than my father to keep and collect the money and the money which

belonged to my father, important and original property papers, music videos and audios. She then throw out his clothes from matrimonial bedroom

and changed all the locks. 14. All her acquisition regarding him taking away the money or anything else is totally fabricated. What the worst his my

mother even tried to keep my husband and me apart, when my husband and I were having problems it was only with my father"s efforts that I got

back with him and understandings were clear. On the other hand she tried deliberately to create problems between my husband and me and even

with my in laws. I cannot understand how a mother can behave herself towards her daughter. 15. She had diverted all funds towards herself and in

fact my father is in helpless situation, she has even spoiled his life professionally, she has also accused my father that Prashant is not his son only to

humiliate him. It is very embarrassing but my mother is even now living with some man and a shaming my father and whole family. She has bought a

car with my money which she has stolen from me. Her only object is to maim my father financially, emotionally and-financially. He has lost

substantial professional contract on account of her behaviour. She has stolen all the joint accounts and money and articles including audios and

videos as aforesaid. She has spoiled the work, prospect and make him difficult to survive"".

(8) The defendant filed the. following documents:

1. Photograph of Priya Pawar after the plaintiff assaulted her in house Obsterley, Osterley, Middlesex. 2. Medical Certificate of Doctor U.

Capoor and Doctor B.C. patel. 26 Basildene Road, Hounslow West Middx. TW4 7 Le of the injuries of Priya Pawar. 3. Affidavit filed by Priya

Pawar before Brentford County in the matter of Sections I and 2 of the Domestic Violence Act, 1976. 4. Special Term Deposit receipt for the

amount of U.K. Pound 26,961.18 in the State Bank of Indore in the joint account of Shri Pratap Pawar and Smt. Priya Pawar dated 9.1.1993. 5.

Letter dated 22.2.1994 from State Bank of Indore to Smt. Priya Pawar informing her that Mr. Partap Pawar has withdrawn the whole amount of

Special Term Deposit receipt. 6. Transfer of Gas Connection of Smt. Pushplata Chakravarty from Bhopal to New Delhi. 7. Document showing

the allotment of Gas Connection to Mrs. Pushplata Chakravarty in flat No. 3322 Sector D Pocket 3, New Delhi. 8. Receipt showing payment by

Mr. Partap Pawar to R.C. Sood & Co. Pvt. Ltd. towards flat No. 20/GF + Basement 1 and 2. 9. Special Power of Attorney in favor of Mrs.

Chand Sarna. Power of Attorney in favor of the advocate.

(9) In the divorce case it appears that the son (Prashant Pawar) of the plaintiff and the first defendant has filed an affidavit. A Xerox copy of an

affidavit is filed by the plaintiff. The son has stated in the affidavit that the mother (first defendant) has not been acting in the interest of the family

and the father had taken the right decision to come to India.

(10) Learned counsel for the plaintiff referred to the judgment of the Supreme Court in Nund Kishore Mehra Vs. Sushila Mehra 59 (1995) D L T

497 (SC) wherein the Supreme Court has dealt with the earlier cases in R. Rajagopal Reddy and Others (deceased by legal representatives) Vs.

Padmini Chandrasekharan (deceased by legal representatives), and also Mithilesh Kumar and Another Vs. Prem Behari Khare, . This is the matter

to be dealt with at the time of trial of the case and the defendant cannot now seek to defeat the claim of the plaintiff/applicant at this stage.

(11) Learned counsel for the defendant relied upon the judgment of the Supreme Court in Mahadeo Savlaram Shelke and Others Vs. Puna

Municipal Corporation and Another, for the proposition that no injunction could be granted against a co-owner. It is not the position here and the

dictum laid down by the Supreme Court in the above case does not apply to the fact of this case. Having regard to the facts and circumstances of

the case, the first defendant cannot dispute the possession of the flat by the plaintiff. Prima facie the claim of the plaintiff on the basis of the

documents filed by him is acceptable. The balance of convenience is in favor of the plaintiff. The conduct of the first defendant has not been very

satisfactory which also evident from the affidavit of the daughter which is already referred to by me.

(12) Therefore, there shall be an injunction restraining the first defendant from alienating, transferring ,creating any interest or parting with any right,

title or interest of Flat No. D- III/3322, Vasant Kunj, New Delhi, in favor of anybody. Defendant No.2 is also restrained from giving any effect to

transfer or mutation of the said flat in favor of defendant no.1 or anyone else. Defendant No. 1 or her family members, agents, servants or anyone

acting on her behalf is further restrained from dispossessing the plaintiff and his family members from the said flat and from entering into the said flat

and from threatening, intimidating or in any other manner harassing the plaintiff till the disposal of the suit.

(13) Accordingly, is No. 207/95 under Order Xxxix Rules 1 and 2 filed by the plaintiff is allowed. is No. 3977/95 under Order Xxxix Rule 4 filed

by the defendant No.1 is dismissed. Post the matter for further proceedings on 29th of the October 1996.