

Suit for possession – A decree of possession does not automatically follow a decree of declaration of title and ownership over property – It is well settled that, where a Plaintiff wants to establish that the Defendant’s original possession was permissive, it is for the Plaintiff to prove this allegation and if he fails to do so, it may be presumed that possession was adverse, unless there is evidence to the contrary –A person claiming a decree of possession has to establish his entitlement to get such possession and also establish that his claim is not barred by the laws of limitation. He must show that he had possession before the alleged trespasser got possession – The maxim “possession follows title” is limited in its application to property, which having regard to its nature, does not admit to actual and exclusive occupation, as in the case of open spaces accessible to all. The presumption that possession must be deemed to follow title, arises only where there is no definite proof of possession by anyone else. In this case it is admitted that the Appellant-Defendant is in possession and not the Respondent Plaintiff.

[Nazir Mohamed v. J. Kamala, 2020 SCeJ 2299](#)