

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s).21798 OF 2017
(Arising out of SLP(C) No. 35666 of 2015)

MANJU SHREE & ORS.

Appellant(s)

VERSUS

SUDHIR KUMAR SIL & ANR.

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

Amendment application was filed at the trial court during the course of first appeal with respect to the validity of the gift deed. As a matter of fact, defendant has set up a gift deed and it was incumbent upon the defendant to prove the gift deed and its genuineness. As the issue nos. 6 & 7 have already been framed with respect to the gift deed, allowing the amendment was superfluous. It was not necessary to be incorporated at the instance of the plaintiff. This was the plea taken by the defendant; and, the question as to genuineness of gift deed has to be ultimately gone into in the first appeal. As such, we set aside the order passed by the High Court, and request the first appellate court to decide the first appeal considering the aforesaid issues on the basis of evidence on record.

The appeal is allowed. No costs.

.....J.
(ARUN MISHRA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI ;

DECEMBER 08, 2017

ITEM NO.13

COURT NO.9

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 35666/2015

(Arising out of impugned final judgment and order dated 14-08-2015 in CWJC No. 2323/2011 passed by the High Court of Judicature at Patna)

MANJU SHREE & ORS.

Petitioner(s)

VERSUS

SUDHIR KUMAR SIL & ANR.

Respondent(s)

(IA No.93165/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA No.93166/2017-EXEMPTION FROM FILING O.T.)

Date : 08-12-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Amit Pawan, AOR
Mr. Abhishek Amritanshu, Adv.
Mr. Hassan Zubair Waris, Adv.
Mr. Akshay Sinha, Adv.
Mr. Akshat Srivastava, Adv.
Mr. Rohit Rajershi, Adv.
Mr. Anand Nandan, Adv.

For Respondent(s) Mr. Shashi Ranjan, Adv.
Mr. Dharmendra Kumar Sinha, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any shall stand disposed of.

(NEELAM GULATI)
COURT MASTER (SH)

(JAGDISH CHANDER)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)