

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 14811 OF 2024

DEVAN GOPE @ DEVNANDAN YADAV & ORS.

APPELLANT(S)

VERSUS

PAVITRI DEVI & ORS.

RESPONDENT(S)

O R D E R

1. The appellants are the defendants in the suit. The suit was filed by the respondents-plaintiffs, who are the descendants of one Tukru Gope, while the appellants are the descendants of one Palat Gope, brother of Tukru Gope. Alleging that no partition has taken place, the respondents, being the plaintiffs, initiated the present suit.

2. In the suit, the appellants, marked Exhibit D, a gift deed executed by the first plaintiff in favour of his daughter (now arrayed as appellant, pursuant to the death of the original plaintiff), stating that a partition had indeed affected and, therefore, the property in his exclusive possession was being gifted to her. The subject matter of the gift deed forms part of the suit properties. Taking note of the same, the Trial Court was pleased to hold that there was indeed a prior partition and that the property standing in the name of Patat Gope was his self-acquired property. Aggrieved, the respondents filed the appeal.

3. The First Appellate Court was also pleased to hold that the property standing in the name of Palat Gope and the appellants herein would constitute their self-acquired property and accordingly, confirmed the judgment and decree of the Trial Court

to that extent. However, without disturbing the findings of the Trial Court, the First Appellate Court held that the gift deed could not be relied upon, as it had not been explained as to how it came to be registered on the very next day of filing of the suit, inasmuch as the defendants/appellants had not proved the gift deed.

4. Incidentally, the First Appellate Court also recorded a finding that there was no actual partition by metes and bounds. Consequently, it held that the properties not standing in the name of Palat Gope and his successors can be partitioned. This finding of the First Appellate Court was confirmed by the High Court.

5. We have heard learned counsel appearing for the appellants and the respondents.

6. In our considered view, the reasonings given by the First Appellate Court, as confirmed by the High Court, cannot be sustained in law. When there is a partition in fact and the same has been acknowledged by the First Appellate Court, there cannot be any decree for a fresh partition. Secondly, the reasoning adopted by the First Appellate Court on the gift deed can never be sustained in the eye of law. Admittedly, it is a registered gift deed, and the respondents have not disputed its execution. Under those circumstances, the findings of the First Appellate Court, as confirmed by the High Court, on the validity of the gift deed are nothing but perverse.

7. It is not as if the appellants have executed the gift deed. We have also perused the gift deed. The gift deed clearly speaks about the partition of the suit property, which has been decreed as if there is no partition. No explanation was forthcoming in this

regard. Placing the onus on the appellants to prove the gift deed, when it is undisputed, is a registered document, and was executed by the original plaintiff in favour of one of his daughters, clearly indicating the partition and separate possession of the subject matter of the present appeal, would disentitle the respondents from getting any relief as we are not able to concur with the reasonings given by the First Appellate Court, as confirmed by the High Court.

8. Accordingly, the appeal is allowed. Consequently, the judgment and decree of the First Appellate Court, as confirmed by the High Court, insofar as they were against the appellants, stand set aside. The suit is dismissed. No costs.

.....J.
(M.M. SUNDRESH)

.....J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
NOVEMBER 19, 2025.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCivil Appeal No(s). 14811/2024

DEVAN GOPE @ DEVNANDAN YADAV & ORS.

Appellant(s)

VERSUS

PAVITRI DEVI & ORS.

Respondent(s)

Date : 19-11-2025 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMAFor Appellant(s) : Mr. Sanjeev Kumar, AOR
Mr. Rajnish, Adv.
Mr. Ajit Singh, Adv.
Mr. Sanjay Kumar, Adv.
Mr. Naik H.k., Adv.For Respondent(s) : Mr. Chand Qureshi, AOR
Mr. Mujahid Ahmad, Adv.
Mr. Md.imran Siddiqui, Adv.
Mr. Prakash Verma, Adv.
Mr. Mohd Adil Mansoori, Adv.
Mr. Rahul Mohod, Adv.
Mr. Sanjay Gyan, Adv.
Mr. Ambuj Mishra, Adv.
Mr. Parmanand Singh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. The appeal is allowed in terms of the signed order.
2. Pending application(s), if any, shall stand closed.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS(POONAM VAID)
ASSISTANT REGISTRAR

(Signed order is placed on the file)