AD- 37
Ct No.16
09.06.2025
(SSS)

SA 63 of 2025
With
CAN 1 of 2025

Sri Prabir Coomar
Vs.
Sri Alok Kumar Kumar

Mr. Rajdeep Bhattacharyya,
Mr. Neil Basu,
Mr. Sankha Biswas
....For the Appellant.

Mr. Pradyot Kumar Nandi,
Ms. Anjana Sengupta,
Ms. Subhra De
.....For the Respondent.

1. The present second appeal has been preferred against a judgment of affirmance, whereby the exclusive title of the plaintiff/respondent in respect of the suit property has been declared and consequential relief has been granted.

2. The learned Advocate appearing for the defendant/appellant submits that both the courts below misconstrued the tenor and purport of the gift deed executed in favour of the plaintiff/respondent, on the basis of which the plaintiff claims title to the suit property. It is submitted that the gift deed itself indicates that undivided shares in the property were given in favour of the plaintiff without severing the joint status of the property and, as such, the

exclusive title of the plaintiff in respect of the subject matter of the deeds could not have been declared by the courts below.

3. The learned Advocate for the defendant/appellant also files in court a copy of the gift deed executed in favour of the plaintiff/respondent.

4. From the gift deed, we find that in the body thereof it has been categorically mentioned that the donee (plaintiff/respondent) shall, upon execution of the gift deed, shall be deemed to be the rightful owner of the property to the *extent and demarcation* which is more fully described in the schedule and *delineated in colours in the plan annexed to the deed* and that the donee (plaintiff/respondent) shall be deemed to be the *absolute owner to the exclusion of all heirs of the donor* and to have and hold the same for the use and benefit or for his successors-in-interest *to the exclusion of all other persons*.

5. Also, in the plan annexed to the deed, the demarcated portion of the plaintiff/respondent is indicated by use of different colours.

6. Thus, the learned Courts below rightly came to the conclusion that by virtue of the gift deed executed in favour of the plaintiff/respondent, specifically demarcated portions out of the till-then undivided property was donated in favour of the plaintiff by the

original owner, the predecessor-in-interest of the parties.

7. We must mention here that although the expression “undivided” has been used in the respective schedules of the two properties which were donated by the gift deed, it, read in conjunction with the rest of the gift deed, clearly shows that the donor only meant that the property was undivided till the execution of the gift deed. However, by virtue of execution of the deed and in view of the clear words of the same, adjuncted by a specifically demarcated plan, such expression has been qualified to show that the ownership, till then undivided, was severed by dint of the gift deed and demarcated specific portions were donated in favour of the plaintiff/respondent.

8. Thus, we do not find any illegality in the judgments and decrees of the courts below in declaring the exclusive title of the plaintiff and granting consequential reliefs in respect of the suit property. Thus, no substantial question is involved here.

9. Accordingly, SA 63 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

10. Consequentially, CAN 1 of 2025 is also dismissed.

11. No order as to costs.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)