



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.166 OF 2025

APPELLANTS
(Original Plaintiffs on R.A.)

:- Natthu Nagoji Watkar (deceased)

- 1) Suresh Natthu Watkar,
Aged about 58 Years, Occ: Agriculturist,
- 2) Shankar Natthu Watkar, Aged about 56
Years, Occ: Agriculturist,
- 3) Dnyaneshwar Natthu Watkar,
Aged about 53 Years, Occ: Agriculturist,
All R/o. Khairgaon, Tah. Narkhed, Dist.
Nagpur.

..VERSUS..

RESPONDENT
(Original Defendant on R.A.)

:- Arunatai Sudhakar Watkar,
Aged about 44 Years, Occ: Labour,
R/o Khairgaon, Tah. Narkhed, Dist.
Nagpur.

Mr. Nishant J. Patel, Advocate for Appellant.
None for Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **18/11/2025**

ORAL JUDGMENT :

1. Heard.
2. The present second appeal arises out of judgment and
decree dated 28.07.2023, passed by the learned 3rd Jt. Civil Judge

Senior Division, Nagpur, in Special Civil Suit No.232 of 2018, whereby the suit for cancellation of the registered gift deed dated 28.09.2017 filed by the original plaintiff/Natthu Nagoji Watkar in favour of defendant, who his widowed daughter in law came to be dismissed and the judgment and decree dated 12.02.2025, passed by the learned Ad-hoc District Judge-5, Nagpur, dismissing the Regular Civil Appeal No.261 of 2023 arising out of the said suit.

3. One Natthu Watkar filed the aforesaid suit against his daughter in law, who is widow of his predeceased son Sudhakar, seeking cancellation of the registered gift deed dated 28.09.2017 executed by him in her favour. It is the case of the plaintiff that the gift pertains to ancestral property and therefore, he did not have any authority to transfer it by way of gift and that the said gift was obtained from him by the defendant by practicing fraud and taking unfair advantage of his illiteracy. After filing of the affidavit, in lieu of examination-in-chief, the original plaintiff before his cross-examination died and the present appellants who are sons of original plaintiffs were brought on record as his legal representatives.

4. The defendant opposed the suit by filing written statement, contending that the gift was executed and registered voluntarily and that it was only pertaining to the share of her husband only. She further stated that the gift was executed in her favour by her father in law (plaintiff) for her maintenance.

5. Based on the rival pleadings, issues were framed on which parties led their respective evidence.

6. The plaintiff No.3 was examined as PW-1 on behalf of the plaintiffs. During the course of his cross-examination, he admitted that partition of the properties had taken place during the lifetime of his father i.e. original plaintiff. He further admitted that the gift deed under challenge was pertaining to share of defendant's husband in the properties which would have fallen to his share. Mutation entries recorded pursuant to the partition were also admitted by this witness. Most importantly, the witness also admitted that, just as the impugned gift deed dated 28.09.2017 was executed in favour of the defendant, widow of predeceased son of the original plaintiff, three separate gift deeds were also executed by the plaintiff on 20.12.2017 in favour of his other three sons.

7. Based on these admissions, the learned trial Court held that the fact of partition during the lifetime of Natthu, the original plaintiff, was duly proved and further that it was also proved that he had executed four gift deeds d

8. uring his lifetime, three in favour of his sons and one in favour of the widow of his predeceased son (defendant). The learned trial Court therefore held that the plaintiffs had failed to prove the case of fraud and also failed to assail the gift on the ground that the same was pertaining to ancestral property. In view of these findings, coupled with the positive findings that the gift was properly proved by examining an attesting witness, whose evidence was not shattered in cross-examination and proof of acceptance of the gift, the learned trial Court dismissed the suit.

9. The learned First Appellate Court confirmed the decree passed by the learned trial Court by referring to the admission with respect to partition to hold that the plaintiff had the authority and title to execute the gift deed in question. The learned trial Court also referred to cross-examination of PW-1 wherein it was specifically admitted that Natthu had executed the gift in favour of defendant for her maintenance. The learned First Appellate Court

has also referred to the mutation of the property in favour of the defendant pursuant to the gift deed in question and her possession over the suit property to hold that acceptance of the gift was duly proved. The learned First Appellate Court has also held that attestation of the gift was also proved by examining DW-2.

10. This findings recorded by both the learned Courts are pure findings of fact based on appreciation of the entire material on record. The learned Advocate for the appellants/plaintiffs contended that case of fraud was duly established. However, on perusal of the findings and deposition recorded, copies whereof were provided for perusal, this Court is of the opinion that the findings of fact recorded by the learned Courts are perfectly just and proper and do not warrant any interference. The fact that similar document of gift are executed in favour of other three sons gives credence to the impugned gift which is executed in favour of widowed daughter in law. The document is duly registered and properly attested as per requirement of law. The plaintiffs have miserably failed to prove the case of fraud. Rather material admissions in cross-examination of PW-1 are sufficient to hold that the gift is a genuine in and legal document.

11. In view of the findings recorded above, in the considered opinion of this Court, no substantial question of law arises for consideration in the present second appeal. The second appeal is therefore **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate