2026:HHC:50819

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 579 of 2007

Reserved on: 31.10.2026

Date of Decision: 25.11.2026

Suni Devi & ors. ...Appellants

Versus

Mohinder Lal (deceased) through LRs Vidyawati (deleted) now Jitender Lal and others

...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] Yes

For the Appellants : M/s Lalit Kumar Sehgal and Meenakshi Thakur, Advocates.

For the Respondents : None.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment and decree dated 06.08.2007 passed by learned Additional District Judge, Fast Track Court, Shimla, H.P. (learned Appellate Court) vide which the judgment and decree dated 01.07.2002 passed by learned Sub Judge First Class, Court No. 1, Shimla

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

(learned Trial Court) were upheld. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)*

2. Briefly stated, the facts giving rise to the present appeal are that the plaintiff filed a civil suit before the learned Trial Court seeking a declaration that the trust deed registered as Deed No. 43, Book No. 4, Volume 21 at Page 51 dated 14.05.1996 is the result of misrepresentation and fraud, the plaintiff never executed or got registered any trust deed in the name and style of Shiv Mandir Trust, Pari Mehal, Village Melhi, Tehsil and District Shimla, and the deed is a void document which does not bind the plaintiff. A relief of permanent prohibitory injunction for restraining the defendants from interfering in the affairs of the temple located over the suit land described in the head note and para 2 of the plaint was also sought. It was asserted that the plaintiff is an illiterate person who can only put his thumb impression on the papers. The plaintiff is the owner in possession of the suit land. He sold part of the suit land to different persons and constructed a house and a temple on a portion of the suit land. The plaintiff was managing the temple himself, and he was permitting the people

to visit the temple at the time of festivals and Navratras. The defendants came to the temple in the 4th week of June 1996 and declared that they would manage the affairs of the temple because they were trustees of a trust known as Shiv Mandir Trust, Pari Mehal, Village Melhi. The plaintiff made enquiries from various persons and found that a trust deed was got executed from the plaintiff by misrepresentation and fraud. In fact, the defendants had approached the plaintiff in April 1996 and purchased certain land from the plaintiff. They told the plaintiff that a temple committee should be constituted to manage the affairs of the temple. They obtained the plaintiff's thumb impression on the blank documents and disclosed that they would obtain the aid from the government. The plaintiff made enquiries from the defendants, and Defendant No. 1 supplied the copy of the trust deed to the plaintiff. The deed is bad as it was got executed by misrepresentation and fraud. Therefore, the suit was filed for seeking the relief mentioned above.

3. The suit was opposed by filing a written statement taking preliminary objections regarding the suit being bad for non-joinder of necessary parties and the suit not having been

properly valued for Court fees and jurisdiction. The contents of the plaint were denied on merits. It was asserted that the plaintiff had appeared before the Sub-Registrar hundreds of times to execute various sale deeds of his land. The plaintiff operates bank accounts and files income tax returns and other documents before the public authorities. The plaintiff had carved out more than 100 plots in his land, leaving common areas like road, path, green area, park, school, temple, shopping complex, etc., as envisaged under the Town and Country Planning Act Rules and Regulations framed thereunder. The temple was constructed for the benefit of the public. The plaintiff approached the defendants to create a trust. The defendants purchased the stamp paper for registration of the trust deed. It was agreed in a meeting of the residents that the trustees would pay ₹5,000/- and would be called founder trustees. The plaintiff was also present at the meeting. He signed the trust deed in the presence of Pramod Chauhan and Jaisi Ram Thakur, the witnesses to the deed, in the office of the Sub-Registrar. The plaintiff has concealed material facts from the Court and has not come to the Court with clean hands. The temple was constructed by the people of the area by making

contributions and donations. Therefore, it was prayed that the suit be dismissed.

4. A replication denying the contents of the written statement and affirming those of the plaint was filed. The learned Trial Court framed the following issues on 14.10.1997:

1. Whether the trust deed dated 14.5.1996 has been obtained by misrepresentation and fraud by defendants from plaintiff, as alleged? OPP.
2. Whether the plaintiff is entitled to the relief of permanent prohibitory injunction as prayed? OPP.
3. Whether the suit is bad for non-joinder of necessary parties? OPD.
4. Whether the suit has not been properly valued for the purpose of court fee and jurisdiction?
5. Relief.

5. The parties were called upon to produce the evidence, and the plaintiff examined Kirpa Ram (PW1), Chet Ram (PW2), Suni Devi (PW3) and himself (PW4). The defendants examined Jaisi Ram (DW1), Pramod Singh (DW2), T.R. Bhardwaj (DW3) and defendant No.2 (DW4).

6. The learned Trial Court held that the trust deed was duly registered by the Sub-Registrar. The witnesses to the deed also proved that it was read over and explained to the plaintiff. The trust was created for the benefit of the public. The plaintiff

had executed various sale deeds, and the plea taken by him that he only put his thumb impression on the documents and was not aware of the contents was not believable. Hence, the learned Trial Court answered issues No.1 to 4 in the negative and dismissed the suit filed by the plaintiff.

7. Being aggrieved by the judgment and decree passed by the learned Trial Court. The plaintiff, through his legal representative, filed an appeal which was decided by the learned Additional District Judge, Fast Track Court, Shimla, HP. (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that the plaintiff had failed to establish that the trust deed was executed by practising fraud upon him. The plaintiff had carved out various plots and sold them to various persons. The possession of the suit land was given to the trustee, and the plea taken by the plaintiff that he is in possession of the suit land was not acceptable. Hence, the learned Appellate Court dismissed the appeal.

8. Being aggrieved by the judgments and decrees passed by the learned Courts below, the plaintiff has filed the regular

second appeal which was admitted on the following substantial questions of law. On 27.06.2011.

1. Whether the two courts below have misconstrued, misinterpreted the material on record in returning the findings that deed Mark-DX (Mark-A) dated 14.5.1996 was executed by Jiwanu Ram and have further misconstrued the case of Jiwanu Ram that the said document was got executed fraudulently by the predecessor-in-interest of respondent No.1 and also by respondent No.2?
2. Whether the alleged trust-deed Mark-DX (Mark-A) has not been executed in accordance with the Indian Trust Act and can be considered in evidence?

9. I have heard Mr. Lalit Kumar Sehgal and Ms. Meenakshi Thakur, learned counsel for the appellants. None appeared on behalf of the respondents. Hence, none could be heard.

10. Mr Lalit Kumar Sehgal, learned counsel for the appellants, submitted that the plaintiff is an illiterate person. He had not executed any trust deed, which is evident from the fact that the documents for the trust deed were purchased on different dates and the purpose of purchasing the documents was mentioned as affidavits. The defendant No. 1 is an influential person who had obtained the plaintiff's thumb impression by misrepresenting the facts. The learned Courts below have failed to properly appreciate the evidence on record.

Therefore, he prayed that the present appeal be allowed and the judgments and decrees passed by the learned Courts below be set aside.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

Substantial Question of Law No.1:

12. The trust deed is a registered document. It contains an endorsement made by the Sub-Registrar that it was read over and explained to the Executant, who acknowledged its correctness.

13. Section 60(2) of the Registration Act provides that a certificate signed, sealed and dated by the Registering Officer shall be admissible for the purpose of proving that the document has been duly registered in the manner provided by this Act and the facts mentioned in the endorsement referred to in Section 59 have occurred as therein mentioned. Therefore, there is a presumption attached to the registered document that it was validly registered and its contents were read over and explained to the executant, who admitted them to be correct. It was laid down by this Court in ***Kripa Ram vs. Smt. Maina 2002(2) Shim.***

L.C. 213, that there is a presumption regarding the correctness of the endorsement made on the registered documents. It was observed: -

> 10. Section 60 of the Registration Act specifically provides that the certificate endorsed on the document, registered by the Registrar, shall not only be admissible in evidence for the purpose of proving that the document has been duly registered in the manner provided under the Act, but also that the facts mentioned in the document referred to in Section 59 have taken place as mentioned therein. It is now settled that the presumption of due execution of a document arises from the endorsement of the Sub-Registrar under Section 60 of the Act. As far back as 1928, the Privy Council in ***Sennimalai Goundan and another v. Sellappa Goundan and others, AIR 1929 Privy Council 81***, interpreting the provisions of Section 60(2) read with Section 115 of the Evidence Act, held that where a person admits execution before the Registrar after the document has been explained to him, it cannot subsequently be accepted that he was ignorant of the nature of the transaction. In that case, the plaintiff alleged that his father and brothers, with the intention of defrauding the plaintiff of his legitimate share in the family properties, entered into a fraudulent collusive partition. The Trial Court found that the plaintiff's case was proved, and it decreed the suit. In the appeal, it was held that the plaintiff failed to make out the alleged fraud and allowed the appeal. The decree of the Trial Court was set aside. The Subordinate Judge had found that the partition was unequal because the land allotted to the plaintiff was less than that allotted to the other brothers. It was found that contemporaneously with the partition, some land that fell into the share of plaintiff Karuppa were conveyed to his second wife, Nachakkal, by a registered sale deed. Nachakkal gave evidence that the transaction was bogus, as she never paid the consideration for the sale, though

she admitted the execution of the sale deed before the Registrar. Her story that she was ignorant of the nature of the transaction, it was held, cannot be accepted, as she had admitted the execution of the sale deed before the Registrar.

11. A Division Bench of this Court, ***Kanwarani Madna Vati and another v. Raghunath Singh and others, AIR 1976 HP4I***, interpreting the provisions of Section 62 of the Registration Act, held that there is a presumption of correctness of the document if its execution is admitted before the Registrar. The Division Bench in para 20 observed:

> "Under Section 60(2) of the Registration Act, the certificate given by the registering officer shall be admissible for the purpose of proving that the document has been duly registered in the manner provided by this Act and that the facts mentioned in Section 59 have occurred as therein mentioned. Therefore, there is a presumption which attaches to the correctness of the endorsements made on the document by the Registering Officer. These endorsements show the presentation of the document personally by Smt. Madna Vati for registration. She was identified by Kr. Jowala Singh, and her signatures were also obtained by the Registering Officer on both the endorsements, i.e., the endorsement of the presentation and that of admitting the contents of the documents and the receipt of the consideration by her. In order to rebut this, it was necessary for defendant No.2 to have produced the Sub Registrar. She did not produce him in the witness box. Therefore, the presumption of correctness shall become conclusive."

12. In the present case, as noticed earlier, there is an endorsement of the Sub-Registrar to the effect that the contents were read over and explained to the vendor-plaintiff, Maina Devi and, therefore, the presumption is that the contents of the sale deed were read over and explained to her. The Sub-Registrar (DW3) himself is

categorical in his evidence that the contents of the sale deed were read over to Maina Devi. He duly proved the endorsements. Therefore, in the circumstances, the learned first Appellate Court was not right while reversing the findings of the Trial Court on the grounds that the contents of the sale deed were not read over or explained to the plaintiff.

13. A Single Judge of this Court in ***Rewat Ram Sharma v. Munshi Ram (RSA No.242 of 1994) decided on December 13, 2001***, relying upon ***Kanwarani Madya Vati, Sennimalai Goundan (supra) and Dinesh Chandra Guha v. Satchindannanda Mukherji, AIR 1972 Orissa235***, held that admission of signatures on the endorsement made by the Registrar by an executant of the document in the absence of anything else to the contrary, would lead to the inference that the plaintiff was present before the Sub Registrar when the document was presented for registration and the onus to rebut the presumption under Section 60(2) the Registration Act was heavily on the plaintiff which the plaintiff did not discharge. In that case, the plaintiff's case was that he had borrowed some money from the defendant and had agreed to mortgage his property in favour of the defendant. The plaintiff was taken to the Tehsil Headquarters for the purpose of executing the mortgage deed. His signatures were obtained by the defendant by making him believe that it was a mortgage deed, and later on, the defendant proclaimed that the property had been gifted to the defendant, and the plaintiff realised that, instead of the mortgage deed, a gift deed was executed from him fraudulently by the defendant. He repudiated the gift deed and filed a suit that the gift deed was a result of misrepresentation, fraud and undue influence on the part of the defendant. It is in this context that the Court held that Section 60(2) of the Evidence Act raises a presumption as to the correctness of the endorsement made on the document by the Registering Officer."

14. A similar view was taken in ***Rattan Singh v. Nirmal Gill*, *(2021) 15 SCC 300: 2020 SCC OnLine SC 936*** wherein it was observed at page 321:

> **33.** To appreciate the findings arrived at by the courts below, we must first see on whom the onus of proof lies. The record reveals that the disputed documents are registered. We are, therefore, guided by the settled legal principle that a document is presumed to be genuine if the same is registered, as held by this Court in ***Prem Singh v. Birbal [Prem Singh v. Birbal, (2006) 5 SCC 353]***. The relevant portion of the said decision reads as below : (SCC pp. 360-61, para 27)
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> > "27. There is a presumption that a registered document is validly executed. A registered document, therefore, *prima facie* would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption." (emphasis supplied)
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> In view thereof, in the present case, the initial onus was on the plaintiff, who had challenged the stated registered document.
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> **41.** The trial court had justly placed the initial burden of proof upon the plaintiff as it was her case that the subject documents were forged or the product of fraud and because the documents bore her signature. The first appellate court did not elaborate on that aspect. Even assuming that the burden had shifted upon the defendants, the witness identifying the signatures of the dead attesting witness was examined by the defendants. Therefore, the documents stood proved, and the burden was duly discharged by the defendants."

15. The Hon'ble Supreme Court also held in ***Hemalatha (D) v. Tukaram (D), 2026 SCC OnLine SC 106*** that a registered deed carries with it a formidable presumption of validity and the Court must not lightly or casually declare a registered document a sham. It was observed:

> *"COURTS SHOULD NOT CASUALLY DECLARE A REGISTERED DEED A 'SHAM', AS REGISTRATION CREATES A STRONG PRESUMPTION OF VALIDITY & GENUINENESS*
>
> **31.** It is a settled position of law that a registered Sale Deed carries with it a formidable presumption of validity and genuineness. Registration is not a mere procedural formality but a solemn act that imparts a high degree of sanctity to the document. Consequently, a Court must not lightly or casually declare a registered instrument as a "*sham*". Adopting the principles enunciated in ***Prem Singh v. Birbal, (2006) 5 SCC 353 (27.*** There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, Respondent 1 has not been able to rebut the said presumption……"), ***Jamila Begum (Dead) Through Lrs. v. Shami Mohd. (Dead) Through Lrs., (2019) 2 SCC 727 ("16.*** The sale deed dated 21-12-1970 in favour of Jamila Begum is a registered document, and the registration of the sale deed reinforces the valid execution of the sale deed. A registered document carries with it a presumption that it was validly executed. It is for the party challenging the genuineness of the transaction to show that the transaction is not valid in law….."), and ***Rattan Singh v. Nirmal Gill, (2021) 15 SCC 300("33.*** To appreciate the findings arrived at by the courts below, we must first see on whom the onus of proof lies. The record reveals that the disputed documents are registered. We

> are, therefore, guided by the settled legal principle that a document is presumed to be genuine if the same is registered...")*,* this Court reiterates that the burden of proof to displace this presumption rests heavily upon the challenger. Such a challenge can only be sustained if the party provides material particulars and cogent evidence to demonstrate that the Deed was never intended to operate as a *bona fide* transfer of title.
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> **32.** The grounds typically accepted to challenge a registered Deed at the instance of the vendee/executant are fraud or want of capacity in any party, or mistake of fact, or fundamental illegality, such as where the Deed was executed under deceit or sold by a fraudster who did not own the land or where the Deed was executed without consideration, namely, if no money or value was actually exchanged despite recitals in the Deed, or where there was coercion or intimidation, like where the seller was forced to sign without free consent.
>
> **33.** While the aforementioned grounds are illustrative and not exhaustive, this Court must caution against the growing tendency to challenge registered instruments '*at the drop of a hat*'. If the sanctity of registered documents is diluted, it would erode public confidence in property transactions and jeopardise the security of titles. In a society governed by the Rule of Law, registered documents must inspire certainty; they cannot be rendered precarious by frivolous litigation."

16. The Hon'ble Supreme Court held in ***Rattan Singh*** (supra) that where a person challenges a General Power of Attorney on the ground that it was executed by him fraudulently, the burden is upon him, which has to be discharged by examining the attesting witnesses to the deed and

in case such witnesses are not examined, the plea of the plaintiff cannot be accepted. It was observed at page 321:

> "**35.** As the execution of the 1990 GPA and the sale deeds in the present cases is denied by the plaintiff, it became necessary for the plaintiff to examine the attesting witnesses of the disputed documents to establish her allegation about their non-execution. For, the documents had been registered on 29-6-1990 and came to be attested by Teja Singh Lambardar and Gurcharan Singh. However, both the attesting witnesses were not examined. Indeed, Teja Singh had since died, but there is nothing on record regarding the availability of Gurcharan Singh..."

17. Therefore, the burden was upon the plaintiff to prove that the trust deed was got executed from him by misrepresentation.

18. The plaintiff Jiwanu Ram (PW4) stated that he had sold the land to various persons including the defendants, after carving out the plots. He had constructed a temple and installed the idols of Lord Shiva, Parvati, and Ganesh, which were brought from Jaipur. He had spent the money on the construction of the temple and consecration of deities. The defendants interfered with the temple and disclosed that the plaintiff had executed a trust deed. The defendant No. 1 had obtained his thumb impression on the pretext that money was to be taken from the

State Government for the enlargement of the temple. He was kept outside the office, and the trust deed was registered in the office. No person was present at the time of putting a thumb impression on the trust deed. He stated in his cross-examination that he had no receipts for the purchase of the idols. He admitted that he had sold land to various persons. He admitted his thumb impression on the trust deed. He admitted that the defendant no.2 had taken a cheque of ₹5,000/- from him.

19. The testimony of this witness that he was made to sit outside the office of the Sub-Registrar and the deed was registered inside the office was rightly rejected by the learned Courts below. It is the admitted case of the plaintiff that he has carved out various plots and sold them to various persons. Therefore, he was aware of the procedure of the execution and registration of various documents, and it is difficult to believe that he would have remained outside the office of the Sub-Registrar and allowed the proceedings to be conducted inside the office.

20. Pramod Singh Chauhan (DW2) stated that he had purchased the land from the plaintiff. The trust deed was executed in his presence. The plaintiff had expressed his desire to execute a trust deed and had contributed ₹5,000/- in his presence. The deed was read over and explained by the Sub-Registrar to the plaintiff, and the plaintiff acknowledged its correctness. He stated in his cross-examination that he did not know the defendant no.1 personally. He admitted that the plaintiff is an illiterate person who could not understand the English language. The plaintiff had handed over a cheque of ₹5,000/-. He admitted that the temple was constructed by the plaintiff. He volunteered to say that it was revealed that the plaintiff is the founder trustee and the other trustees would look after the affairs of the temple. He denied that the trust deed was got executed fraudulently.

21. There is nothing in the cross-examination of this witness to show that he is making a false statement. He claimed that he knew the defendant no.1 by designation but did not know him personally. There is no material on record to show that he is under the influence of the defendants and would make a false statement at their instance against the plaintiff. His statement

that the plaintiff had contributed ₹ 5,000/- is corroborated by the plaintiff's admission that he had paid ₹ 5,000/-. The plaintiff has not provided any explanation for paying ₹ 5,000/- and this payment proves the defendants' version that the plaintiff had contributed the money as a founder trustee.

22. Jaisi Ram (DW1) stated that the plaintiff, Jiwanu Ram (PW4), had visited his shop repeatedly to get the trust deed executed. The plaintiff asked him (Jaisi Ram) to accompany him to the Court. The plaintiff put his thumb impression on the trust deed after acknowledging its correctness. He stated in his cross-examination that the proceedings for preparing the trust deed were not conducted in his presence and he could not say what was written in the deed. He admitted that Jiwanu Ram (PW4) was illiterate. Jaisi Ram, Pramod, and Mahanand Thakur had visited the office of the Sub-Registrar. Defendant No. 1 had not put his signature on the deed.

23. The testimony of this witness also does not show that the plaintiff had not executed the trust deed. This witness has specifically stated that the plaintiff had visited his shop 3 months before the execution of the trust deed and had asked him

to accompany him (the plaintiff) to the office of the Sub-Registrar. He categorically stated that the plaintiff had put the thumb impression in the presence of the Sub-Registrar and the witnesses, which shows the due execution of the trust deed in his presence.

24. Kirpa Ram (PW1) and Chet Ram (PW2) deposed about the construction of the temple, which is not material to determine whether the trust deed was got executed by misrepresentation or not. Sunni Devi (PW3) was not present at the time of the execution of the trust deed and cannot depose about its validity. She admitted in her cross-examination that, as per the sanction accorded by the Town and Country Planning Department, the temple, roads, etc. were to be constructed in the common area, which supports the version of the defendants that the temple was constructed on the common area as per the sanction granted by the Town and Country Planning Department.

25. It was submitted that the stamp papers were purchased for an affidavit and not for execution of the trust deed. These were purchased against 3 different serial numbers

and not against one Serial Number. This falsifies the defendants' version that the stamp papers were purchased for the execution of the trust deed. This submission will not help the plaintiff. Merely because the documents were purchased for an affidavit and not the trust deed does not mean that the trust deed was not written as per the plaintiff's wishes. This could have been a significant circumstance had the other evidence corroborated the plaintiff's version. However, the marginal witnesses to the trust deed and the endorsement made by the Sub Registrar on the trust deed do not support the plaintiff's version and the execution of the deed cannot be doubted merely because the stamp papers were purchased for executing the affidavit and not a trust deed.

26. Therefore, there is no infirmity in the findings so recorded by learned Courts below that the plaintiff had failed to prove that the trust deed was got executed fraudulently, and this substantial question of law is answered accordingly.

Substantial Question of Law No. 2:

27. Section 5 of the Indian Trusts Act, 1882, provides that a trust in relation to immovable property can be created by a

non-testamentary instrument in writing signed by the author of the trust and registered by the author of the trust. In the present case, the trust deed was executed at the instance of the plaintiff, who had created the trust. It was got registered at the instance of the plaintiff, and therefore there is compliance with Section 5 of the Trust Act. It was laid down by the Hon'ble Supreme Court in ***Kuldip Chand v. Advocate-General to Govt. of H.P.*, *(2003) 5 SCC 46: 2003 SCC OnLine SC 220*** that a Hindu is entitled to dedicate his property for religious and charitable purposes. It was observed at page 53:

> "**21.** It is beyond any dispute that a Hindu is entitled to dedicate his property for religious and charitable purposes wherefore even no instrument in writing is necessary. A Hindu, however, in the event, wishes to establish a charitable institution must express his purpose and endow it. Such purpose must clearly be specified. For the purpose of creating an endowment, what is necessary is a clear and unequivocal manifestation of intention to create a trust and vesting thereof in the donor and another as trustees. The subject of the endowment, however, must be certain. Dedication of property may be either complete or partial. When such dedication is complete, a public trust is created in contradistinction to a partial dedication which would only create a charity. Although the dedication to charity need not necessarily be by instrument or grant, there must exist cogent and satisfactory evidence of conduct of the parties and use of the property, which shows the extinction of the private secular character of the property and its complete dedication to charity. (See ***Menakuru***

Dasaratharami Reddi v. Duddukuru Subba Rao [AIR 1957 SC 797: 1957 SCR 1122].)

28. In the present case, the deed contains a clear manifestation and was executed as per the Trusts Act. Hence, this substantial question of law is answered accordingly.

Final Order:

29. In view of the above, there is no infirmity in the judgment and decree passed by the learned Courts below; hence, the present appeal fails, and it is dismissed.

30. Pending application(s), if any, also stand(s) disposed of.

31. Records of the learned Courts below be sent down forthwith.

(Rakesh Kainthla)
Judge

25th November, 2026
(Nikita)