

In the Court of : **SUB-JUDGE-I, BAKHRI, BEGUSARAI**
Present: **MANOJ KUMAR SINGH, CIVIL JUDGE (Sr. Div.)**
Title Suit No.-148/2013, CIS Reg. No.-148/2013



In the matter of-

Dulahan Pandit & Ors. Plaintiffs
Ram Bilash Pandit & Ors. Vs. Defendants

BRBE220000192013

Sl.	Date of Order of proceedings	Order with signature of the Court	Office action taken with date
1	2	3	4
	07.08.26	Both parties are present. The record has been presented for order after hearing the leave petition dt.-12.01.22 along with the petition dt.-04.07.25 for marking exhibit the documents filed on 12.01.22 with list of documents filed by the defendants. <u>ORDER</u> Ld. Counsel of defendant submitted through the leave petition dt.-12.01.22 that on the date 12.01.22 the record was fixed for Plaintiff's evidence and the defendant filed some documents with list of documents which are relevant to the subject matter of the suit and essential for complete and just adjudication of the suit. Ld. counsel further submitted that the defendant has filed the leave petition in hand as the documents have been filed after settlement of issued. He made a prayer to take the said documents on record. Further, ld. Council for defendant pressed the petition dated 04.07.25 and submitted that some documents have been filed on behalf of defendant on dated 12.01.2022 with list of documents which is laying in the suit record. The defendant filed 1. <i>Certified copy of gift (Ataynama) named by Ram Bilash Pandit son of Jageshwar pandit,</i> 2. <i>Certified copy of sale deed named by Chhathu Kumhar & others,</i> 3. <i>Certified copy of sale deed named by Fulo Devi wife of Ram vilash Pandit (defendant).</i> 4. <i>Certified copy of khatiyani of Mauza-Sujanpur Khata no. 165 named by Sita kumhar, Palat Kumhar, Mangal Kumhar son of Mohan Kumhar and Maso Chetni Devi w/o Shiv Dayal.</i> 5. <i>Certified copy of Genealogical Table (Vanshavali) of recorded tenant and rent receipts.</i> Ld. counsel prayed to mark exhibit the filed documents as public documents. The said petition has been opposed by the plaintiffs through rejoinder dt.-05.08.25 and it has been stated that the present petitioner is not maintainable because the defendants filed the abovementioned document after examination and cross-examination of the plaintiff namely Dukha Pandit. Besides this defendant did not file the leave petition for filing of documents so	

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	Continued 07.08.26	this petition is fit to be rejected. The plaintiff filed the certified copy of gift which cannot be treated as a public document because in deed of gift two attesting witnesses are required as per section 68 of Evidence Act out of them one of attesting witness is required to adduce his evidence for proving the deed of gift. The defendant filed the certified copy of sale-deed which are not public document so the same be should be proved as provided by law. If the defendant is ready to mark the certified copy of sale-deed in that case endorsement of Register on sale deed, can be marked not the recital of sale-deed. Defendant filed the genealogical table which is also not public document. The defendant did not show the custody of each and every documents. Under the facts and circumstances of the case defendant is duty bound to file a petition/leave petition first and thereafter another step will be considered. Ld. counsel prayed to reject the petition. Heard and perused the record. From perusal it transpires that the above said documents have been filed with list of documents dt. 12.01.22 by defendants are on record along with a leave petition praying therein to take such documents on record. Issues have been settled I this suit on 18.07.18. Therefore, it would be evident that the documents have been filed delayed. It is a settled principle of law that all relevant documents and evidence must be produced and brought on record for the court to consider. This ensures all parties have the opportunity to present their case, allows the court to make an informed decision, and facilitates the fair and complete administration of justice. Therefore, for the ends of the justice the defendants' leave petition dt.- 12.01.22 is <i>allowed</i> with cost Rs. 500/- payable to the plaintiff and the documents are taken on record. Now, on the question of marking exhibit the document, the Certified Copies of Sale Deeds and Certified Copy of Record of Rights (Khatiyani) are public documents and it appears proper to mark these documents as exhibit. However, so far as the question of marking exhibit the Certified Copy of Gift Deed (Ataynama) in a civil suit requires strict adherence to the CPC and the Indian Evidence Act, primarily because a Gift Deed for immovable property is a compulsorily registrable and attestable document. Section 123 of	

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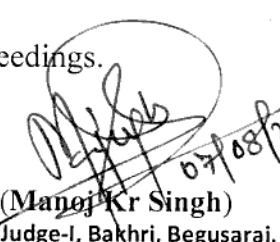
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	Continued 07.08.26	the Transfer of Property Act mandates that a Gift Deed must be attested by at least two witnesses, it falls squarely under Section 68 of the Indian Evidence Act in which proof of execution of document required by law to be attested. To legally prove the Gift Deed, at least one attesting witness must be called to the witness box. Therefore, the certified copy of the Gift Deed can't be marked as exhibit as public document dispensing with formal proof. Similarly, the Certified Copy of Genealogical Table (Vanshawali) of recorded tenant and Rent Receipts do not fall under the ambit of Public Documents. Consequently, these documents can't be marked exhibit as public document dispensing with formal proof. Considering above discussed facts and circumstances of the suit the defendants' petition dt.-04.07.25 is Partly allowed. Office is directed to mark Exhibit the documents (<i>subject to payment of aforesaid cost</i>):- - Certified copy of sale deed named by Chhathu Kumhar & others as Ext.-" _____", - Certified copy of sale deed named by Fulo Devi wife of Ram Vilash Pandit (defendant) as Ext.-" _____", - Certified copy of khatian of Mauza-Sujanpur Khata no. 165 named by Sita kumhar, Palat Kumhar, Mangal Kumhar son of Mohan Kumhar and Maso Chetni Devi w/o Shiv Dayal as Ext.-" _____". Put up on for further proceedings.  (Manoj Kr Singh) Sub-Judge-I, Bakhri, Begusarai.	