

IN THE COURT OF MUNSIF, SHAHPUR PATORI, SAMASTIPUR

Present P.O. Sri Piyush Ranjan

Title Suit No. 13/2012

Rajesh Khanna

...Plaintiff

Versus

Santosh Kumar Gupta and Others

...Defendants

Date	Order with signature of the Magistrate	Remarks
19.06.26	The defendant filed a petition dated 31.07.2024 correcting the earlier petition on 26.04.2024 Section 151 C.P.C. stating that defendant had filed a deed of adoption dated 21.01.2016 which is the subject matter of the suit and was executed on 28.10.1990 by Permishwari Devi he further stated that due to some oversight by the then learned counsel the same was not exhibited before the court although the same was mentioned in examination in chief of witness no. 6 Sanjay Kumar Drivedi from the side of defendant. He also prayed that a petition in the same behalf was filed and was rejected vide order dated 19.11.2022 due to causing delay in the proceedings. The learned counsel for defendant stated that the case is fully and completely dependent upon the sale deed and the same may be taken as exhibit in this case as it is necessary for the just adjudication of the case. The learned counsel placed reliance on Section 151 C.P.C. invoking the inherent powers of the Court to pass necessary order in the interest of justice and re-open the evidence for the purpose of examination and the cross examination in the light of the above stated documents. Lastly he prayed that defendant is ready to adopt every procedure which is required by the law and directed by the Court for marking of exhibit of the said adoption deed. Plaintiff filed rejoinder in this behalf wherein he prayed that the petition filed by defendants may be rejected as the same was rejected earlier as well, and is filed just to cause the delay in the suit. He also added that the case has advanced to the state of arguments and allowing this petition will vex the plaintiff obtaining necessary remedy within time from this Court. Perused the record on perusal it appears that the defendants have placed	
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cont... <u>19.6.26</u>	reliance on judgment passed by Hon'ble Supreme Court of India in K.K. Velusamy vs. N. Palaanisamy, Civil Appeal No. 2795-2796 of 2011 in which the Supreme Court have given directions as to how, when and in what manner the inherent power under Section 151 C.P.C. can be exercised by the Court. On bare perusal of the examination in chief of D.W.6 Sanjay Kumar Driwedi, it appears that he has mentioned about the adoption deed dated 28.10.1990 in his examination in chief but the same was not marked as exhibit for reasons best known to then parties. On further perusal it appears that same witness Sanjay Kumar Driwedi was again examined on 11.06.1919 and 02.07.2019 in both of the examinations he mentioned about the said adoption deed. The Court finds that the said document is relevant to the issues involved in this case and for the proper identification and adjudication of the dispute between the parties. Although a similar prayed was rejected, upon perusal of the record it transpires that the document in question already forms of the part case record and earlier order merely declined the prayer at that stage without adjudicating upon the necessity of formally identifying the document for the purpose of complete adjudication of the controversy. The present order does not review or recall the earlier order rather, this is in exercise of inherent powers under Section 151 C.P.C. and in the interest of justice to allow the document that is his adoption deed to be exhibited subject to the provision admissibility and evidentiary value. Though the suit had reached the stage of final arguments mere marking of a document as an exhibit does not by itself dispose with the reformers of proving the document in accordance with the law nor just it automatically establishes it content. The evidentiary value admissibility in prove of the document shall remain subject to consideration at the time of final disposal of the suit. Considering the nature of document and in order to avoid the multiplicity of the proceedings and proper adjudication to the dispute at hand, the Court is of the view that the petition dated 31.07.2024 is allowed to a cost of Rs. 2500	
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with a direction that the witnesses may be recalled and the contents of said document should be proved as per the law relating to evidence. It is also ordered that the evidence so adduce shall be subject to admissibility proof and evidentiary value as per the law laid down in evidence. The opposite parties (plaintiff in this case) shall be at liberty to advance submissions and cross examine any of the witnesses so appear regarding the admissibility genuineness and evidentiary worth of the said document the stage of evidence. In the light of above discussion the petition is hereby **allowed** and defendants are directed to complete and comply with all the directions in this order within two consecutive dates.

Put up on 17.07.2026 for defendant evidence.

Dictated

C.J.J.D.
Shahpur Patori

9.8.26
N. K. J. D.
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