

ORDERS ON IA NO.XXIII

This application is filed by the defendant under Order XVI Rule 6 of the Code of Civil Procedure, seeking issuance of summons to the Manager, Karnataka Grameena Bank, Vinobha Nagar Branch, Sagar, for production of the original Gift Deed dated 30.08.2012 registered as Document No.1526/2012-13.

2. The application is supported by the affidavit of the defendant, wherein it is stated that the plaintiff has produced a certified copy of the Gift Deed dated 30.08.2012 and the same has been marked as Ex.P1. It is further contended that the original Gift Deed has been deposited with Karnataka Grameena Bank, Vinobha Nagar Branch, Sagar, by way of mortgage for availing a loan and, therefore, the original document is presently in the custody of the said Bank. According to the defendant, production of the original Gift Deed is necessary for proper adjudication of the dispute involved in the suit. Hence, prayed to allow the application.

3. The application is strongly opposed by the learned counsel for the plaintiff. It is contended that the application is not maintainable. The learned counsel submits that though the defendant had knowledge regarding the custody of the original document, he failed

to disclose the same at the earliest opportunity as required under Order VIII Rule 1A of CPC. It is argued that the defendant has not stated in the written statement that the original Gift Deed was in the custody of the Bank. At this belated stage, after completion of evidence and arguments, the defendant cannot be permitted to fill up the lacuna in his case by filing the present application. It is further contended that the application is filed only to protract the proceedings and therefore deserves to be dismissed.

4. Heard the learned counsel appearing for both parties. Perused the records.

5. The present suit is one for declaration and cancellation of the Gift Deed dated 30.08.2012 registered as Document No.1526/2012-13 on the file of the Sub-Registrar, Sagar. The entire controversy between the parties revolves around the validity, execution and genuineness of the said Gift Deed. The plaintiff has alleged that the Gift Deed was obtained by fraud, misrepresentation and undue influence.

6. Admittedly, the plaintiff has produced only a certified copy of the Gift Deed and the same has been marked as Ex.P1. The original Gift Deed is not before the Court. Though the defendant had an opportunity to

disclose at the initial stage that the original document was not in his possession and was in the custody of the Bank, he has failed to do so. The contention of the plaintiff that such disclosure ought to have been made in compliance with Order VIII Rule 1A CPC.

7. However, it is equally relevant to note that, the Gift Deed sought to be cancelled in the present suit is the foundational document upon which the rights of the parties depend. The Court, while hearing the matter for judgment, found that production of the original Gift Deed would assist in arriving at a just and proper adjudication of the dispute. The defendant has now disclosed that the original document is available in the custody of Karnataka Grameena Bank, Vinobha Nagar Branch, Sagar.

8. The procedural lapse on the part of the defendant in not disclosing the custody of the document at the earliest stage cannot outweigh the necessity of placing before the Court the primary document which forms the very subject matter of the suit. Production of the original Gift Deed would enable the Court to effectively adjudicate the issues involved and no prejudice would be caused to either party by summoning the same. At the same time, the defendant cannot be absolved of the consequences of his failure to disclose the custody of the document at the

appropriate stage. Therefore, the application deserves to be allowed subject to payment of costs.

9. Accordingly, I proceed to pass the following:

ORDER

The application filed by the defendant under Order XVI Rule 6 of the Code of Civil Procedure is hereby allowed, subject to payment of costs of Rs.500/- to the plaintiff.

The Manager, Karnataka Grameena Bank, Vinobha Nagar Branch, Sagar, is hereby summoned to produce before this Court the original Gift Deed dated 30.08.2012 registered as Document No.1526/2012-13 on the next date of hearing.

The Bank shall be at liberty to retain a photocopy of the document for its record and may seek return of the original document immediately after completion of its purpose before this Court in accordance with law.

Issue summons accordingly.

Call on 23.06.2026.

(Dictated to the Stenographer on online computer, typed by her, corrected by me and then pronounced in the open court this the 16th day of June, 2026.)

(Raghavendra Shettigar)

Prl. Senior Civil Judge & JMFC,
Sagar.