

R.C.S. No. 45/2018
(Krushna Dhiwar & ors. Vs. Lalita Chavan)
Order below Exh. 121
(Passed on 13th February, 2026)

This is an application filed by the plaintiffs for issuance of direction to the defendant No.1 for producing the gift deed dated 31.01.2019 on record, which has been executed by her in favour of the defendant No.2 to 4 and her husband. It is submitted by the plaintiff that the plaintiff has specifically prayed for declaration that said gift deed is not binding on the plaintiff. An issue has been framed to that effect. Under such circumstances, it becomes necessary to have the original gift deed on record for the just decision of the suit.

02. The defendants have resisted the application by filing say at Exh.123 by contending that the plaintiff is only interested to prolong the matter. In fact, he is having burden to prove the additional issue that said gift deed is not binding on him. Under such circumstances, the responsibility of execution of the Will is not business of the plaintiff and in such way he can not claim that it is void. The suit property can be alienated and only on the ground that no prior permission of the Court is obtained it cannot be set aside. As per Section 53 of the Transfer of Property Act, the suit property can be transferred. Under such circumstances, the original gift deed is not required to be brought on record. In fact, said transaction is not affecting the merit of the suit. The suit is part heard and the present application has been filed only with in intention to delay the proceeding.

03. Perused the application along with the entire record. Heard both the sides. The plaintiff has also filed written notes of

arguments. It is the matter of record that the suit is part heard. It also appears that the additional issue came to be framed in the matter, as the issue No.2B and the plaintiff is having burden to prove that the said gift deed is not binding upon them. It is also the matter of record that the gift deed is executed after the filing of present suit and during the pendency of the proceeding.

04. This is a suit for perpetual injunction as well as declaration with regard to sale deed of year 1982 and the possession. The plaintiff has also prayed for the relief of declaration of ownership of the suit property. So also, he has prayed for relief of perpetual injunction in the matter. Therefore, considering the prayers and relief claimed by the plaintiffs and especially the additional issue at serial No.2B below Exh.44, it is necessary to have original gift deed on record, so as to decide the real controversy and question between the parties on merit. Under such circumstances, the defendant No.1 is hereby directed to file the original gift deed dated 31.01.2019 on record till next date. Hence, the order:

ORDER

1. The application (Exh.121) is hereby allowed.
2. The defendant No.1 is hereby directed to file the original gift deed dated 31.01.2019 on record till next date.
3. Cost in main cause.

[Dictated and pronounced in open Court.]

Date:- 13/02/2026.
Place – Wai.

(R. M. Bhende)
2nd Jt. Civil Judge, Jr. Dn.,Wai