

M/L.15.
April 6, 2026.
MNS.

SAT No. 19 of 2025
+
CAN 1 of 2025

Abul Hayat and others
Vs.
Late Hapija Khatun, her legal heirs Hamida
Bibi and others

Mr. Pawan Kumar Gupta,
Mr. Syed Julfikar Ali,
Ms. Sofia Nesar,
Mr. Santanu Sett

... for the appellants.

1. In view of the name of the respondent no. 7 being mentioned in the memorandum of appeal as “Rofikul Alam @ Mofikul Alam”, we deem the defect to that effect as pointed out by the Additional Stamp Reporter to stand rectified.
2. The present second appeal shall be heard on the following substantial questions of law:

i) Whether the learned First Appellate Court substantially erred in law in proceeding only on the basis of the finding of the trial court regarding the burden of proof in respect of the gift deeds allegedly executed in favour of the mother of the plaintiffs, by overlooking the other grounds on which the suit was dismissed, in particular the misdescription of the property in the schedule of the plaint, which also apparently vitiated the suit itself.

ii) Whether, in view of a specific challenge having been thrown to the veracity and validity of the purported gift deeds executed in favour of the mother of the plaintiffs, the learned First Appellate Court substantially erred in law in merely proceeding on the premise that the said documents were ancient documents, thereby mitigating the requirement on the part of the plaintiffs/respondents to establish the veracity of the said documents and the circumstances associated therewith by cogent evidence.

Re: CAN 1 of 2025 (stay application)

3. In view of a *prima facie* case having been made out, there shall be stay of operation of the impugned judgment and decree dated November 27, 2024 passed by the learned Civil Judge (Senior Division), Kandi, District: Murshidabad in Title Appeal No. 57 of 2014, subject to the parties maintaining *status quo* in respect of the suit property till disposal of CAN 1 of 2025.

4. The appellants shall serve copies of CAN 1 of 2025 on the respondents within a week from date and file an affidavit-of-service to that effect at the time of final hearing of the application.

5. The respondents shall file affidavit-in-opposition, if any, to CAN 1 of 2025 within four weeks from date.

6. Affidavit-in-reply thereto, if any, shall be filed within a fortnight thereafter.

7. Liberty to the parties to mention the application for inclusion in the list before the appropriate learned Single Judge then having determination after the above timeline for filing of affidavits is over.

(Supratim Bhattacharya, J.) (Sabyasachi Bhattacharyya, J.)