

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2026
(@Special Leave Petition (Civil) No.5179 of 2020)

THE ALARANATH DHANDA MULAKA
MAHAVIDYALAYA THROUGH
SECRETARY CUM PRINCIPAL

... APPELLANT(S)

VERSUS

LAXMIDHARA SAMANTASINGHARA (DEAD)
THR. LRS. & ORS.

...RESPONDENT(S)

ORDER

1. Leave granted.
2. On 14th of October 1978, a gift deed of an immovable property was executed in favour of the present appellant – original Defendant No.1, by Defendant No.2 – the father of the plaintiffs.
3. On the said land, Defendant No.1 set up a college which has been functional since September 1981. Sometime in the year 1989, the plaintiffs, sons of Defendant No.2, filed a suit seeking a declaration *qua* the said gift deed to be illegal and void on the premise that the suit land was not the individual property of Defendant No.2, but joint family property in which the plaintiffs also had an interest. The suit was decreed *ex parte vide* judgment dated 01.07.2000. Significantly, the plaintiffs sat over the decree till the year 2016

i.e., 15 years and thereafter only filed an application for execution. It is at this point in time, the donee i.e., Defendant No.1 learnt about the decree *ex parte* in nature, to have been passed with respect to the suit land. Resultantly, Defendant No.1 took steps in accordance with law.

4. The District and Sessions Judge *vide* judgment dated 08.02.2018 in RFA No.31 of 2016 set aside the said *ex parte* decree by condoning the delay of 15 years and 7 months. However, the High Court *vide* order dated 18.09.2019 in CRP No.4 of 2018 set aside the same, for the Defendant No.1 did not furnish sufficient explanation on the issue of delay. It is in the aforesaid backdrop we are called upon to decide the present appeal.

5. It is a matter of record that certain facts are undisputed. The suit property was gifted in the year 1978 by Defendant No.2 in favour of Defendant No.1. Soon thereafter, i.e., from 21.09.1981, an educational institution was set up which became functional. It was only in the year 1989 that a suit was filed, challenging the said gift deed, in which Defendant No.1 was proceeded *ex parte*. Defendant No.1 is in possession the possession of the property. Defendant No.2 even though associated with Defendant No.1, never ever informed him/Defendant No.1 of the passing of decree. The execution of the decree was put on hold for over 15 years.

6. Having heard learned counsel for the parties, we are of the considered view that the High Court committed a grave error in entertaining the revision petition and setting aside the order dated 08.02.2018 passed by the District Judge, Puri, who allowed the application under Section 5 of the Limitation Act by entertaining the regular first appeal. It is argued that the decree which is collusive in nature, was only obtained to defeat the right of a party, more so on account of the prices of the land having risen considerably. While we refrain

from commenting about the conduct of either the plaintiff or their father i.e., Defendant No.2, but considering the overall conspectus, we are inclined to interfere with the impugned order, for Defendant No.2 did furnish sufficient explanation in taking recourse to such steps as were permissible in law, in getting an *ex parte* decree set aside.

7. It is argued that the suit was not maintainable in view of the applicable municipal law(s). We are not making any observation on the same and leave the issue open for the same to be considered during trial. The appeal is allowed. The *ex parte* decree dated 01.07.2000 in T.S.No.159/1989 titled ***Sri Kapila Samantisinghar & ors. vs. The Alarnath Dhanda Mulaka Mahavidyalaya, Managing Committee represented through its Secretary and Anr.***, is quashed and set aside. The suit is restored to its original number for it to be tried on expeditious basis in accordance with law. Parties to appear before the Trial Court on 08.09.2026. Pending applications(s) if any shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi;
August 3, 2026