



2026 INSC 227

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No..... of 2026
(@Special Leave Petition (C) No.157 of 2026)**

Arjun & Anr.

...Appellants

Versus

Mukesh & Ors.

...Respondents

ORDER

Leave granted.

2. Apart from the legal issue involved, a strange family story unfolds where an old man attempts to protect his land from his children and grandchild, allegedly wayward, by gifting it to his great-grandchildren. This man, Rameshwar was in possession and enjoyment of 3.16 hectares of land as obtained from his father Chokharam. Rameshwar had two sons and one daughter, Mahavir, Arjun and Jinku respectively and a grandson Dalchand, born to Arjun. The gift deed was made by Rameshwar to the children of

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Dalchand, namely, Mukesh, Ramesh and Praveen. The children of Rameshwar, Arjun and Jinku filed a suit challenging the gift deed on the contention that they along with Mahavir, the 5th defendant and Rameshwar, the 4th defendant had 1/4th share each of the ancestral undivided property of the Joint Hindu Undivided Family. The three minors were the defendant Nos.1 to 3 and the 6th defendant was Dalchand, the grandson who died during the pendency of the suit.

3. Rameshwar, concerned with preservation of his property and to sustain the gift deed in favour of his great grandchildren, filed an application under Order VII Rule 11 of the Civil Procedure Code before the Trial Court. He pleaded that Mahavir, his elder son and Jinku had separated from the family after their marriage and were given their due share, despite which the former tried to cheat him of the property relying on a Will, allegedly executed by the wife of Rameshwar, who was mentally unstable. Arjun, his second son is alleged to have

murdered his wife upon which Dalchand, the grandson's protection was taken over by Rameshwar. Protection of his great-grandchildren; fell on him when Dalchand too hit the bottle and wasted himself away, forcing him to gift the property to the great-grandchildren. Other than the pitiable story, it was contended that the Civil Court could not have considered the *khatedari* rights of the plaintiff which definitely will have to be determined by the Revenue Court as per the Rajasthan Tenancy Act, 1955. The Trial Court rejected the plaint and the High Court by the impugned order confirmed such rejection on that sole ground.

4. We heard Ms. Shobha Gupta, Senior Advocate appearing for the appellants/plaintiffs and Mr. Gagan Gupta, Senior Advocate appearing for the respondents/defendants.

5. Based on the Tenancy Act, it was contended on behalf of the appellants that if a suit is filed where the question of *khatedari* rights arise then necessarily the Civil Court has

to raise an issue and refer it to the Revenue Court for consideration. In the present case in fact before the civil suit was filed, the plaintiffs had approached the Court of Sub-Divisional Court, Sikar with a suit for declaration and permanent injunction numbered as Suit No.01 of 2013 produced as Annexure A-1 along with the application for permission to file additional documents. On behalf of respondent it was submitted that unless that suit is finalized, there is no question of a challenge against the gift deed being considered.

6. As is found from the Tenancy Act, if a question of tenancy arises in a civil dispute, the Civil Court would have to raise an issue and refer it, for consideration of the tenancy rights, to the Revenue Court. In the present case the finding is also that only the Revenue Court has the jurisdiction to decide *khatedari* rights based on which the plaint was rejected; while the suit for the relief to declare the tenancy rights was pending before the Revenue Court, which fact was not noticed by the Trial Court and the High

Court. Even if the suit before the Revenue Court was not pending, if a dispute is raised with respect to *khatedari* rights before the Civil Court, an issue ought to have been raised and referred to the Revenue Court. The rejection of the plaint on that ground was highly improper. However, in the circumstances of the suit pending before the Revenue Court, we do not think that now there is any requirement for a reference. The civil suit challenging the gift deed can be restored and the Trial Court directed to keep the suit in abeyance till the other suit is decided. If any of the parties in the civil suit so desires, they can seek to implead themselves before the Revenue Court for a fair disposal of the claim of the *khatedari* rights agitated before the Revenue Court, which has the jurisdiction to decide that aspect.

7. On the aforesaid reasoning, we set aside the impugned order of the High Court and the order of the Trial Court rejecting the plaint and restore Civil Suit No.29/2016 to the files of Additional District Judge-03, Sikar, Rajasthan.

The same shall be kept pending till Suit No.01/2013 filed before the Court of the Sub-Divisional Officer, Sikar is disposed of. The Court of the Sub-Divisional Officer is also directed to decide the issue and transmit the final order to the ADJ, Sikar upon which the trial in the suit be resumed and taken to its logical conclusion.

8. The appeal stands allowed in the aforestated terms. We make it clear that we have not opined on either the *khatedari* rights or on the validity of the gift deed.

9. Pending application(s), if any, shall stand disposed of.

..... J.
(SANJAY KUMAR)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI
FEBRUARY 27, 2026.