



CGHC010083452026

2026:CGHC:34942-DB

AFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**FA No. 48 of 2026**

- 1 - Smt. Shakila Parveen W/o Habib Ulla Miya, Aged About 31 Years  
D/o Rajab Ali, Caste-Musalman,
- 2 - Mu. S. Najma Ali, D/o Rajab Ali, Aged About 27 Years Caste-  
Musalman,
- 3 - Smt. Salma Khatun, W/o Rajab Ali, Aged About 52 Years
- 4 - Rajab Ali, S/o Noor Mohammad, Aged About 70 Years Occupation-  
Retired Employee All are R/o House No. 46, Khanji Nagar Puraina,  
Telibandha, Raipur Shahar, Tahsil And District Raipur C.G.

**... Appellants/Defendants**

**versus**

- 1 - Smt. Nasima Ali W/o Late Naushad Ali, Aged About 33 Years  
Occupation-House Wife
- 2 - Adib Ali, Aged About 13 Years
- 3 - Ku. Alishba Ali, Aged About 9 years,  
No.2 & 3 are minor son and Daughter Of Late Naushad Ali, Through  
Her Natural Guardian Mother Smt. Nasima Ali, all are R/o House No.  
46, Khanji Nagar Puraina, Telibandha, Raipur Shahar, Tahsil And District  
Raipur C.G.
- 4 - Mu. S. Shabnoor Ali, D/o Rajab Ali, Aged About 28 Years Caste-  
Musalman, R/o House No. 46, Khanji Nagar Puraina, Telibandha,  
Raipur Shahar, Tahsil And District Raipur C.G.

**... Respondent(s)**

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For : Mr.Rajkumar Pali, Advocate  
Appellants/Defendants No.1, 3, 4 & 5  
For Respondents : Mr.Sourabh Sharma, Advocate  
No.1 to 3/Plaintiffs

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**Judgment on Board**

**Per Ramesh Sinha, Chief Justice**

**10.08.2026**

1. Heard Mr.Rajkumar Pali, learned counsel for the appellants/defendants as well as Mr.Sourabh Sharma, learned counsel appearing for respondents No.1 to 3/plaintiffs.
2. The appellants / defendants No.1, 3, 4 and 5 have filed the instant first appeal against the impugned judgment dated 24.11.2025 and decree dated 27.11.2025 passed by the learned 11<sup>th</sup> District Judge, Raipur, District Raipur in Civil Suit No.42A/2029, whereby a civil suit preferred by the plaintiffs / respondents No.1 to 3 has been decreed in their favour.
3. Brief facts of the case are that the plaintiffs/respondents Nos.1 to 3 filed a suit seeking a declaration that the registered gift deed dated 27.03.2019 is null and void and not binding upon them, along with a decree of permanent injunction in respect of the suit property bearing Plot No.46, admeasuring 1500 sq. ft., situated at Rani Durgavati Ward No.47, Khanij Nagar, Puraina Telibandha, Raipur (C.G.). It was pleaded, inter alia, that the husband of plaintiff No.1

and father of plaintiffs Nos.2 and 3, namely, late Naushad Ali, was working as a contractor and was also engaged in the business of supplying medicines, medical articles and medical machines to various Government departments. In the year 2013, he started a proprietorship firm in the name and style of "Alite Bio Medical" and carried on his business thereunder. He died on 04.06.2018. The plaintiffs further pleaded that defendant No.5 was an employee of NMDC and, under the housing scheme of the said company, had purchased the suit land from the Housing Board, Raipur, on 03.03.1994. According to the plaintiffs, the consideration for the said purchase was paid by late Naushad Ali, husband of plaintiff No.1. Thereafter, late Naushad Ali constructed a house over an area of 1,000 sq. ft. forming part of the suit property out of his own income. It was further pleaded that he constructed another house over an area of 370 sq. ft. forming part of the suit property after obtaining a loan of Rs.5,00,000/- from Bajaj Finance Company. The plaintiffs are residing in the said house.

4. The plaintiffs further pleaded that late Naushad Ali had repaid the loan amount during his lifetime and, after his death, plaintiff No. 1 continued to repay the outstanding loan amount. However, some amount is still due and payable. It was further pleaded that, after the death of late Naushad Ali, the defendants subjected the plaintiffs to mental and physical harassment and threatened them with dispossession from the suit property. It was further pleaded that defendants Nos. 1 to 3 were residing with defendant No. 5,

although they were married women, and that they were attempting to obtain the suit property from defendant No. 5. Under the influence of defendants Nos. 1 to 4, defendant No. 5 executed a registered gift deed dated 27.03.2019 in favour of defendants Nos. 1 to 4 jointly. The plaintiffs further pleaded that they have rights and interest in the suit property and that defendant No. 5, having no exclusive right or authority over the entire suit property, wrongly executed the aforesaid gift deed in favour of defendants Nos. 1 to 4. According to the plaintiffs, the said gift deed is void and ineffective against their rights. It was further pleaded that late Naushad Ali was the only son of defendant No. 5 and had invested a substantial amount of money in the construction of the house situated over the suit property. Despite the same, the defendants threatened the plaintiffs, on account of which the plaintiffs lodged a report with the police.

5. The plaintiffs further pleaded that the execution of the gift deed was contrary to the provisions of Muslim law relating to gifts and that the essential requirements for a valid gift had not been fulfilled. It was also pleaded that the plaintiffs are in possession of a portion of the suit property measuring 370 sq. ft. and, therefore, defendant No. 5 was not in possession of the entire suit property. The plaintiffs further alleged that a house had also been constructed over an area of 75 sq. ft. forming part of the suit property. It was further pleaded that, on the basis of the registered gift deed, defendants Nos. 1 to 4 got their names mutated in the

revenue records and thereafter attempted to forcibly dispossess the plaintiffs from the suit property. Consequently, the plaintiffs instituted the suit seeking the reliefs mentioned in the prayer clause of the plaint.

6. Defendants Nos. 1, 2, 4 and 5 submitted their joint written statement and denied the allegations and averments made by the plaintiffs. They pleaded that the plaintiffs had been permitted by defendants Nos. 1 to 4 to reside in the suit property since 26.03.2019. It was further pleaded that late Naushad Ali was engaged in private employment and, after his marriage with plaintiff No. 1, had been residing separately from the defendants. According to the defendants, late Naushad Ali had no relationship with the defendants' family and had neither assisted them nor invested any amount in the suit property. The defendants further pleaded that defendant No. 5 had purchased the suit land from the Housing Board on 03.03.1994 out of his own income, as he was then in service. Thereafter, he obtained a loan from NMDC and constructed the house over the suit property. Defendant No. 5 was the sole owner of the suit property and, therefore, was competent to execute the registered gift deed dated 27.03.2019 in accordance with law in favour of defendants Nos. 1 to 4. It was further pleaded that, pursuant to the execution of the gift deed, possession of the property was handed over to defendants Nos. 1 to 4, who became entitled to the entire suit property. The defendants further pleaded that the plaintiffs were residing in the

suit property without any right or authority since 27.03.2019. Therefore, defendants Nos. 1 to 4 were entitled to obtain vacant possession of the portion measuring 370 sq. ft. from the plaintiffs. On these grounds, the defendants prayed for dismissal of the suit.

7. On the basis of the pleadings of the parties and the evidence available on record, the learned trial Court framed three issues for determination and, after considering the material available on record, decreed the suit in favour of the plaintiffs. Hence, the present appeal.
8. Learned counsel appearing for the appellants/defendants No.1, 3, 4 and 5 would submit that the impugned judgment and decree passed by the learned trial Court are contrary to the pleadings, evidence and material available on record and, therefore, are liable to be set aside. It is submitted that the learned trial Court has failed to properly appreciate the pleadings of the defendants as well as the documentary evidence produced by them in support of their case. Learned counsel would further submit that the property bearing Plot No. 46, admeasuring 1500 sq. ft., was purchased by defendant No. 5 from his own income and, therefore, defendant No. 5 was the sole owner and holder of the entire property. According to learned counsel, there was no contribution made by late Naushad Ali, husband of plaintiff No. 1 and father of plaintiffs Nos. 2 and 3, towards the purchase of the suit property. The finding of the learned trial Court to the contrary is, therefore, based

on an erroneous appreciation of the evidence available on record.

9. It is further submitted that defendant No. 5, being the exclusive owner of the suit property, was legally competent to deal with the property in any manner permissible in law. The plaintiffs had no right, title or interest in the suit property so as to question the transaction entered into by defendant No. 5. Learned counsel would submit that defendant No. 5, in exercise of his lawful ownership rights, executed the registered gift deed dated 27.03.2019 in favour of defendants Nos. 1 to 4. The said registered document was duly proved in accordance with law and there was no sufficient legal basis for the learned trial Court to disregard its effect. Learned counsel would next submit that the learned trial Court has recorded erroneous findings in paragraphs 23, 24 and 25 of the impugned judgment. It is submitted that the learned trial Court failed to properly appreciate the registered gift deed and the evidence led by the defendants in support thereof. The defendants had specifically pleaded in their written statement that the plaintiffs were residing in the suit property without any right or authority. Despite the specific pleadings and evidence on record, the learned trial Court wrongly held against the defendants. Such findings, according to learned counsel, are contrary to the evidence on record and are, therefore, unsustainable in law.
10. It is also submitted that the learned trial Court has erroneously interpreted the gift deed on the ground that the respective shares

of the donees were not specifically mentioned or determined therein. Learned counsel would submit that merely because the exact proportion of the shares of the recipients was not separately specified in the manner understood by the trial Court, the registered gift deed could not have been held to be ineffective or invalid. The finding recorded by the learned trial Court in this regard is based upon an erroneous interpretation of the document and is not sustainable in the eye of law. Learned counsel would further submit that the learned trial Court, without there being any cogent or reliable evidence on record, presumed that the defendants had permitted late Naushad Ali to construct a house over an area of 370 sq. ft. forming part of the suit property. It is submitted that no such permission or consent was ever granted by defendant No. 5 or defendants Nos. 1 to 4 for construction of the said house. The plaintiffs failed to establish any lawful right under which late Naushad Ali could have constructed the house over the suit property. According to learned counsel, the plaintiffs were merely occupying the property without any lawful authority and, therefore, the learned trial Court committed an error in recognizing their possession as being lawful.

11. Learned counsel would further submit that the learned trial Court has also failed to properly consider the joint written statement filed by defendants Nos. 1, 2, 4 and 5, wherein the material allegations and claims made by the plaintiffs were specifically denied. The defence taken by the defendants was consistent throughout and



was duly supported by the documentary evidence available on record. However, the learned trial Court has failed to consider the said defence in its proper perspective and has instead accepted the case of the plaintiffs without there being sufficient evidence to establish their alleged right, title or interest in the suit property. It is lastly submitted that the findings recorded by the learned trial Court are based on misappreciation and non-consideration of material evidence and pleadings, resulting in an erroneous decree in favour of the plaintiffs. Therefore, the impugned judgment and decree deserve to be set aside and the suit filed by respondents Nos. 1 to 3/plaintiffs deserves to be dismissed.

12. Per contra, learned counsel appearing for respondents Nos. 1 to 3/plaintiffs would submit that the learned trial Court, after considering the pleadings, oral and documentary evidence available on record, has rightly decreed the suit in favour of the plaintiffs. The findings recorded by the learned trial Court are based on proper appreciation of the evidence and do not suffer from any perversity or illegality warranting interference in appeal. Learned counsel would submit that the appellants have failed to establish that defendant No. 5 was the exclusive owner of the entire suit property or that the consideration for its purchase was paid solely from his income. On the contrary, the plaintiffs had specifically pleaded and led evidence that late Naushad Ali, husband of plaintiff No. 1 and father of plaintiffs Nos. 2 and 3, had contributed towards the property and had incurred substantial

expenditure for construction of the house situated over a portion of the suit land.

13.It is further submitted that the plaintiffs are in possession of the residential house constructed over an area of 370 sq. ft. and that the defendants failed to establish that such possession was unauthorized. The plea that late Naushad Ali had constructed the house without the consent or permission of defendant No. 5 is not supported by any cogent evidence. Learned counsel would further submit that the registered gift deed dated 27.03.2019 cannot, by itself, establish a valid transfer in favour of defendants Nos. 1 to 4. The plaintiffs specifically challenged the validity of the gift deed on the ground that the essential requirements of a valid gift under Muslim law were not fulfilled. Mere registration of the document does not dispense with the requirement of proving a valid gift in accordance with law. It is also submitted that the learned trial Court rightly considered the contents of the gift deed and found that the respective shares of the donees were not clearly ascertainable. The appellants have failed to demonstrate any perversity or material illegality in the said finding.

14.Learned counsel would submit that the defendants failed to prove that the plaintiffs were occupying the suit property merely with their permission or that their possession subsequently became unauthorized. The learned trial Court, upon appreciation of the evidence, rightly rejected the said defence. Lastly, it is submitted

that the appellants have failed to point out any material error in the impugned judgment. The findings recorded by the learned trial Court are findings of fact based on the evidence available on record. Therefore, the appeal is devoid of merit and deserves to be dismissed and the impugned judgment and decree deserve to be affirmed.

15. We have heard learned counsel appearing for the appellants/defendants Nos. 1, 3, 4 and 5 as well as learned counsel appearing for respondents Nos. 1 to 3/plaintiffs and have carefully perused the pleadings of the parties, the oral and documentary evidence available on record, the findings recorded by the learned trial Court and the grounds raised in the present appeal.

16. The learned trial Court, on the basis of the pleadings of the parties, framed the necessary issues for determination and, upon appreciation of the oral and documentary evidence adduced by the parties, decreed the suit in favour of the plaintiffs. The principal controversy involved in the present appeal is as to whether the registered gift deed dated 27.03.2019 executed by defendant No. 5 in favour of defendants Nos. 1 to 4 was validly executed and completed in accordance with Muslim law and whether the same is binding upon the plaintiffs so as to entitle the appellants to interfere with their possession over the suit property.

17. The first question that arises for consideration is whether defendant No. 5, even assuming him to be the exclusive owner of

the suit property, validly transferred the same in favour of defendants Nos.1 to 4 by way of the registered gift deed dated 27.03.2019. It is the specific case of the appellants that defendant No.5 had purchased Plot No.46, admeasuring 1500 sq. ft., from his own income and was, therefore, the exclusive owner thereof and competent to deal with the property in accordance with law. There can be no quarrel with the general proposition that an owner is competent to transfer his property in accordance with law. However, the question that arises for consideration in the present case is not merely whether defendant No.5 had title over the suit property, but whether the alleged gift in favour of defendants Nos.1 to 4 was validly completed in accordance with the requirements of Muslim law and, consequently, whether it could operate to the prejudice of the plaintiffs, who were admittedly in possession of a portion of the suit property.

18.The learned trial Court has rightly examined the validity of the disputed gift deed in the light of the principles governing Hiba under Muslim law. Under Muslim law, a gift is a voluntary transfer of property without consideration and, for a valid Hiba, the essential requirements are: (i) a declaration of gift by the donor; (ii) acceptance of the gift by or on behalf of the donee; and (iii) delivery of possession of the subject-matter of the gift. These are the essential ingredients for completion of a valid gift. Mere execution or registration of an instrument does not, by itself, dispense with the requirement of establishing a valid Hiba in

accordance with Muslim law.

19.The aforesaid principle assumes significance in the present case as the appellants have principally relied upon the registered gift deed dated 27.03.2019. The fact that the document is registered may establish its execution and registration in accordance with the provisions applicable to registration of documents; however, registration by itself cannot conclusively establish that all the essential requirements of a valid Hiba have been fulfilled. The validity and legal effect of the transaction are, therefore, required to be examined with reference to the pleadings, surrounding circumstances and evidence adduced by the parties.

20.So far as the first two requirements, namely, declaration and acceptance of the gift, are concerned, the learned trial Court has noticed that the disputed gift deed contains recitals to the effect that defendant No.5, as donor, intended to gift the property in favour of defendants Nos.1 to 4 and that the donees had accepted the gift. The signatures/thumb impressions of the parties also appear on the document. Thus, to that extent, the requirements relating to declaration and acceptance may be said to have been substantially established. However, the crucial question which remains for consideration is whether there was actual delivery of possession of the subject-matter of the gift to the donees so as to complete the Hiba.

21.On this aspect, the evidence assumes considerable significance.

The plaintiffs have consistently pleaded that they are residing in the residential portion constructed over approximately 370 sq. ft. of the suit property. Their specific case is that late Naushad Ali, husband of plaintiff No.1 and father of plaintiffs Nos.2 and 3, had constructed the said portion and that the plaintiffs have continued to reside therein. On the other hand, the defendants have asserted that the plaintiffs are unauthorized occupants and that possession of the entire suit property was delivered to defendants Nos.1 to 4 pursuant to the execution of the gift deed.

22.The mere recital contained in the gift deed that possession of the gifted property was delivered to the donees cannot, in the facts and circumstances of the present case, be treated as conclusive proof of actual delivery of possession of the entire suit property. The evidence on record establishes that, even after execution of the gift deed dated 27.03.2019, the plaintiffs continued to remain in possession of the portion measuring approximately 370 sq. ft. The appellants have not produced any cogent or convincing evidence demonstrating any overt act by defendant No.5 whereby possession of the entire suit property was actually and effectively delivered to defendants Nos.1 to 4.

23.It is also significant that defendants Nos.1 to 3 are the daughters of defendant No.5, whereas defendant No.4 is his wife. The parties are closely related and their residence in the suit property is not seriously disputed. In such circumstances, physical delivery of

possession may not, in every case, require actual physical dispossession of the donor; nevertheless, there must be some cogent evidence of an overt act or conduct indicating that the donor had divested himself of possession and that the donees had assumed possession in pursuance of the gift. In the present case, there is no satisfactory evidence establishing such delivery of possession of the entire subject-matter of the gift.

24. The continued possession of the plaintiffs over a specific portion of the suit property is, therefore, a material circumstance. The defendants have failed to establish that the plaintiffs were dispossessed from the said portion pursuant to the gift deed or that defendants Nos. 1 to 4 assumed exclusive possession thereof. On the contrary, the plaintiffs continued in possession even after execution of the disputed gift deed. Thus, the essential requirement of delivery of possession of the entire subject-matter of the gift has not been satisfactorily established by the defendants.

25. The learned trial Court has also considered the principle of *Musha*, relating to an undivided share in property. In the present case, the suit property comprises Plot No. 46, measuring 1500 sq. ft., together with the construction standing thereon. The disputed gift deed was executed in favour of four donees jointly; however, their respective shares in the property have not been specifically identified or separated in the gift deed. At the same time, a portion

of the suit property measuring approximately 370 sq. ft. admittedly remains in the possession of the plaintiffs.

26. In these circumstances, the learned trial Court was justified in examining whether the subject-matter of the gift was sufficiently identifiable and whether the respective interests of the four donees were capable of being ascertained. Where an undivided interest in property is purportedly gifted to several donees without specification of their respective shares and without effective delivery of possession, the principle relating to *Musha* becomes relevant. The underlying principle is intended to avoid uncertainty or confusion regarding the subject-matter of the gift and the corresponding delivery of possession.

27. It is true that the doctrine of *Musha* has been relaxed by Courts in appropriate cases and cannot be applied mechanically. However, in the present case, the learned trial Court has not declared the gift invalid solely on the ground of *Musha*. The said circumstance has been considered cumulatively with the absence of satisfactory evidence regarding delivery of possession and the continued possession of the plaintiffs over a defined portion of the suit property. Therefore, the finding recorded by the learned trial Court cannot be said to be based upon an isolated or erroneous application of the doctrine.

28. The submission of learned counsel for the appellants that defendant No.5 was the exclusive owner of the suit property and,



therefore, the plaintiffs had no locus to question the gift deed, also cannot be accepted. Even assuming that defendant No.5 was the absolute owner of the suit property, any transfer made by him was required to satisfy the legal requirements applicable to the particular mode of transfer. The plaintiffs were certainly entitled to challenge the validity and binding nature of the gift deed, particularly when the appellants sought to rely upon the same for interfering with the plaintiffs' existing possession.

29. Another material circumstance is the long-standing possession of the plaintiffs. From the pleadings and evidence on record, it emerges that plaintiff No.1 had been residing in the suit property since her marriage with late Naushad Ali in the year 2005. It has further been pleaded and supported by evidence that late Naushad Ali constructed a residential portion measuring approximately 370 sq. ft., including a room and lat-bath, over the suit property. The plaintiffs have continued to reside in the said portion.

30. The defendants have sought to characterize the possession of the plaintiffs as unauthorized from 27.03.2019. However, the evidence on record does not establish that the plaintiffs were inducted into possession merely as temporary or unauthorized occupants. Their long-standing residence in the property and the construction raised by late Naushad Ali during his lifetime are relevant circumstances. The defendants have also failed to produce any cogent material demonstrating that defendant No.5 had objected to such

construction at the relevant time or that the plaintiffs had been directed to vacate the premises prior to execution of the disputed gift deed.

31.The learned trial Court has also considered the plea relating to licence. A licence may be express or implied and may arise from the conduct of the parties. In the present case, the continued residence of plaintiff No.1 in the suit property since the year 2005, followed by construction of the residential portion by late Naushad Ali without any contemporaneous objection by defendant No.5, constitutes a relevant circumstance for determining the nature of the plaintiffs' possession. The learned trial Court was, therefore, justified in examining the plaintiffs' possession from the standpoint of permissive possession and the protection available to such possession in law.

32.The appellants have failed to demonstrate that the conclusion reached by the learned trial Court in this regard is unsupported by evidence. On the contrary, the finding is based upon the relationship between the parties, the long-standing residence of the plaintiffs, the construction raised over the suit property and the subsequent attempt of the defendants to interfere with the plaintiffs' possession on the strength of the disputed gift deed.

33.It is a settled principle that even a person claiming ownership cannot take the law into his own hands and forcibly dispossess a person who is in settled possession. If the defendants claimed a

superior right to possession on the strength of the gift deed, they were required to establish the validity and legal effect of the said transaction and to seek appropriate relief in accordance with law. They could not, merely on the basis of the disputed document, forcibly interfere with the settled possession of the plaintiffs.

34. So far as the relief of permanent injunction is concerned, the plaintiffs specifically pleaded that, after execution of the disputed gift deed, the defendants asserted rights thereunder and threatened to dispossess them from the suit property. The plaintiffs were admittedly in possession of the residential portion. The circumstances emerging from the record, therefore, establish a reasonable apprehension of interference with their possession. The plaintiffs were consequently justified in seeking protection of their possession by way of permanent injunction.

35. The learned trial Court, while granting the relief of permanent injunction, has restrained the defendants from interfering with the possession of the plaintiffs over the suit property and from creating any third-party interest therein. Such relief is consequential upon the finding regarding the invalidity and non-binding nature of the disputed gift deed and the established possession of the plaintiffs. The relief granted by the learned trial Court is, therefore, consistent with the pleadings and evidence on record and does not warrant interference.

36. The appellants have also contended that the learned trial Court

failed to consider the documentary evidence produced by them. However, upon a careful examination of the impugned judgment, it is evident that the learned trial Court considered the disputed gift deed as well as the rival pleadings and evidence and thereafter recorded its findings. Merely because the conclusion arrived at by the learned trial Court is adverse to the appellants cannot, by itself, lead to a conclusion that the relevant evidence was ignored or not considered.

37. The appellants have failed to demonstrate any material contradiction, perversity, misreading of evidence or patent illegality in the findings recorded by the learned trial Court. The findings are based upon appreciation of the oral and documentary evidence and application of the principles governing Hiba under Muslim law.

38. Upon an overall consideration of the pleadings, evidence and surrounding circumstances, this Court is of the considered view that the plaintiffs have succeeded in establishing that, although the registered gift deed dated 27.03.2019 was executed by defendant No.5 in favour of defendants Nos.1 to 4, the defendants have failed to establish that the gift was validly completed in accordance with the essential requirements of Hiba, particularly the requirement of effective delivery of possession of the entire subject-matter of the gift. The further circumstance that the gift was made jointly in favour of four donees without clear specification of their respective shares, coupled with the continued possession of the plaintiffs over

a defined portion of the suit property, lends further support to the conclusion arrived at by the learned trial Court.

39. Consequently, the finding recorded by the learned trial Court on Issue No.1 that the registered gift deed dated 27.03.2019 is void and not binding upon the plaintiffs does not suffer from any illegality, perversity or infirmity warranting interference by this Court. The said finding is hereby affirmed.

40. So far as Issue No.2 is concerned, the plaintiffs have established their continued and settled possession over the concerned portion of the suit property and have also established the threat of interference by the defendants on the basis of the disputed gift deed. The learned trial Court was, therefore, justified in granting the relief of permanent injunction restraining the defendants from interfering with the plaintiffs' possession and from creating any third-party interest in the suit property. The finding recorded on Issue No.2 is based upon proper appreciation of the evidence and calls for no interference.

41. In view of the foregoing discussion, this Court finds no justifiable ground to interfere with the judgment dated 24.11.2025 and decree dated 27.11.2025 passed by the learned 11<sup>th</sup> District Judge, Raipur, District Raipur, in Civil Suit No.42-A/2029. Consequently, the present first appeal, being devoid of merit, is liable to be and is hereby **dismissed**. The judgment and decree passed by the learned trial Court are hereby **affirmed**.

**44.** Parties shall bear their own costs.

**45.** Advocate fees as per rules.

**46.** A decree be drawn accordingly.

Sd/-

**(Ravindra Kumar Agrawal)**  
**Judge**

Sd/-

**(Ramesh Sinha)**  
**Chief Justice**

### **Head-Note**

Under the Muslim law, a valid *Hiba* requires declaration by the donor, acceptance by or on behalf of the donee, and delivery of possession. Mere execution or registration of a gift deed, or a recital of delivery therein, does not suffice where the donor or a third party continues in possession; failure to prove effective delivery of possession of the entire gifted property renders the *Hiba* invalid.