

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 14222-14223/2025
@SLP (CIVIL) No(s). 25194-95/2023

SYED ABDUL HAKEEM AND ORS

APPELLANT(S)

Versus

AHMED MUJTABA SHAREEF

RESPONDENT

O R D E R

1. On 09.09.2025 the petitioners were permitted to effect service of notice on unserved respondents through publication. Pursuant to the order dated 09.09.2025, an Office Report dated 10.11.2025 has been submitted stating that the notice was published on 18.10.2025. The petitioner has also filed affidavit of substituted service through paper publication on 27.10.2025. The report further indicates that no one has entered appearance on behalf of Respondent Nos. 2.1 to 2.6, 5 and 8 to 17 though, Respondent Nos. 1 and 18 to 21 are represented by Mr. Ranjay Kumar Dubey. It is,

however, reported that service of notice is complete on all respondents.

2. Leave granted.

3. Heard Shri Vipin Sanghi, learned senior counsel for the appellants and Shri Ranjay Kumar Dubey for Respondent Nos. 1, 18 to 21.

4. These appeals arise from Original Suit No. 33 of 2008 filed by the appellants for partition by claiming, *inter alia*, that the suit schedule properties originally belonged to Mohd. Shariff who died in the year 1958, leaving behind Hussaini Begum (his widow), Smt. Sayeedunnisa (his daughter) and two brothers, Ahmed Shariff and Jahangir Shariff. It was claimed that Hussaini Begum died in the year 1987; Sayeedunnisa died in the year 1992; Ahmed Shariff died in the year 1959; and Jahangir Shariff died in the year 1961. Plaintiffs claimed that they were sons of Sayeedunnisa; defendant Nos. 1, 2, 3, 4, 5, 6 and 7 were successors- in- interest of Ahmed Shariff; and Defendant Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 were successors- in- interest of

Jahangir Shariff. According to the plaintiffs, on death of Mohd. Shariff, who died intestate leaving behind his widow Smt. Hussaini Begum, daughter Smt. Sayeedunnisa and two brothers, namely, Ahmed Shariff and Jahangir Shariff, the widow and daughter inherited $1/8^{\text{th}}$ and half share respectively in the suit schedule properties whereas, the two brothers inherited $7/32$ share.

5. The Defendant Nos. 1, 7, 8, 10 to 12 filed written statement whereas the other defendants remained *ex parte*. In their written statement they admitted that, Mohd. Shariff was the pattedar and owner of the suit schedule properties, who died issue less leaving behind his wife, Smt. Hussaini Begum and brothers. They claimed that Sayeedunnisa was not the daughter of Mohd. Shariff and Hussaini Begum, therefore, the question of Hussaini Begum (widow) and Sayeedunnisa (daughter) being entitled to $1/8^{\text{th}}$ and half shares, respectively, in the suit schedule properties does not arise.

6. Based on the pleadings of the parties, the Trial Court framed the following issues:

(i) whether the suit schedule properties constitute the joint family property of plaintiff and defendants?

(ii) whether Sayeedunnisa is not the daughter of Mohd. Shariff and Hussaini Begum?

(iii) whether the plaintiffs are entitled for partition and separate possession as prayed for?

(iv) what relief?

7. The Trial Court answered issue no. (ii) first and held that Sayeedunnisa is daughter of late Mohd. Shariff and Smt. Hussaini Begum. As regards issue no. (i), Trial Court held that properties in Survey No. 432, 418, 372, 423, 413, 415, 438 and 419 are joint family properties of the plaintiffs and Defendant No. 7 and others. On issue no. (iii), Trial Court held that since Hussaini Begum was wife of Mohd. Shariff and she died subsequent to the death of her husband she was entitled to 1/8th share though one-half share went to her daughter Sayeedunnisa; and as Hussaini Begum predeceased her daughter Sayeedunnisa, Sayeedunnisa was entitled to one-half share plus 1/8th share in

the suit schedule properties. The remaining went to the defendants. A preliminary decree was passed in the aforesaid terms *vide* judgment and order dated 19 February 2013.

8. Aggrieved by the aforesaid preliminary decree, Defendant No. 7, Ahmed Mujtaba Shariff filed Appeal Suit No. 256 of 2013 by impleading the plaintiffs as well as the remaining defendants as respondents. A cross-objection was also filed, i.e., S.R. No. 7003 of 2013 by the plaintiffs against the judgment of the Trial Court to the extent it excluded land in Survey Nos. 398, 399, 400, 401, 413 and 414 on ground of being recorded in the name of third parties not connected to the family of the plaintiffs.

9. By the impugned judgment and order dated 25.04.2023, the High Court for the State of Telangana at Hyderabad (for short the High Court) allowed the appeal, set aside the judgment and decree dated 19.02.2013 in O.S. No. 33 of 2008 and dismissed the cross-objection. While allowing the appeal the High Court held that Sayeedunnisa was not the daughter of Mohd.

Shariff, rather she was daughter of Ahmed Shariff (i.e., the brother of Mohd. Shariff)

10. Assailing the judgment and decree of the High Court, the learned counsel for the appellants submitted that while reversing the finding returned by the Trial Court on the issue as to whether Sayeedunnisa was daughter of Mohd. Shariff, the High Court did not advert to the detailed reasons recorded by the Trial Court and did not consider the probative value of various documents that were relied by the Trial Court in support of its finding on that issue. In addition to above, the learned counsel for the appellants submitted that various documents that were relied by the High Court while reversing the finding of the Trial Court were either not admissible in evidence or were not relevant therefore, the judgment of reversal is liable to be set aside. To buttress his submissions, the learned counsel relied on two decisions of this Court, namely, *Malluru Mallappa (Dead) Through Legal Representatives Versus Kuruvathappa And Others*, (2020)4 Supreme Court Cases 313 and

Sabir Hussain (Dead) Through Lrs. And Others Versus Syed Mohammad Hassan (Dead) Through Lrs. And Another 2023 SCC Online SC 1589 to contend that an appeal is a continuation of the proceedings of the original suit and, therefore, the appellate jurisdiction involves a rehearing on law as well as on fact. As a sequitur, first appellate court is required to address itself to all the issues and decide the case by giving reasons. The decision in *Sabir Hussain (supra)* was also relied to contend that if the first appellate court chooses to reverse the finding returned by the trial court it must discuss the evidence produced on record.

11. The learned counsel for the appellants took us through the finding(s) returned by the Trial Court on issue no. (ii) to demonstrate that it took into consideration the educational certificates /testimonials of Sayeedunnisa which reflected that she was daughter of late Mohd. Shariff and Hussaini Begum. It was argued that probative value of those educational certificates was not discussed by the High Court

while reversing the finding of the trial court.

12. The learned counsel who represents Respondent Nos. 1, 18 to 21 submitted that he has already purchased a substantial interest in the suit schedule properties from the parties and therefore, he has no interest in opposing the appeal.

13. We have considered the submissions of the learned counsel for the appellants and have perused the record.

14. A perusal of the record would reflect that the case of defendants is that Sayeedunnisa is not daughter of Mohd. Shariff and Hussaini Begum. Rather, she is daughter of Ahmed Shariff. To substantiate their case, defendants placed reliance on the following documents:

(i) Exs. B1 to B4: These documents relate to mutation proceeding where the authority (i.e., Joint Collector) concerned held that, Mohd. Shariff died issueless.

(ii) Copy of gift deed dated 13.02.1962 executed by Hussaini Begum, wife of Mohd. Shariff, wherein she mentioned that she has

no issues and that her husband is dead.

(iii) Copy of a sale deed executed by Sayeedunnisa describing herself as wife of Syed Abdul Raheem and daughter of Ahmed Shariff.

15. On the other hand, the plaintiffs, to prove that Sayeedunnisa was daughter of late Mohd. Shariff and Hussaini Begum, relied on educational certificates of Sayeedunnisa, namely, intermediate pass certificate issued in the month of April 1957; B.A. certificate issued by Osmania University in the month of April 1961; service register showing her date of appointment as 14.08.1963 and the original B.A. certificate issued on 01.07.1972. Those certificates were issued by Osmania University; and service register was maintained throughout the service of late Sayeedunnisa by District Educational Officer, Adilabad. All those documents described Sayeedunnisa as daughter of late Mohd. Shariff.

16. After perusing the documents and evidence led by both sides, the Trial Court returned its

findings in paragraphs 9 and 10 of its judgment.

17. In Paragraph 9, the Trial Court discarded the order of the Joint Collector by observing that the same was an *ex parte* order. Further, it only remitted back matter to the Tehsildar and, otherwise also, it was during mutation proceedings which attached no finality to the determination of the issue.

18. As regards the gift deed, the Trial Court observed in paragraph 10 that the original of the gift deed was not produced and only a xerox copy of certified copy was produced. Similarly, the original of the sale deed was not produced and therefore, secondary evidence was not admissible without disclosure as to in whose possession the original was, or whether it was out of reach or not subject to the process of the Court. The Trial Court also noticed that the original documents were stated to be in possession of Defendant No. 7, but he did not file the same and therefore, an adverse inference was liable to be drawn against the defendants. Further, the Trial Court noticed

that Defendant No. 1 in his cross-examination had admitted that late Sayeedunnisa was appointed a Teacher and the original service register disclosed that she was appointed as School Assistant on 14.08.1963. Furthermore, DW-1 (Defendant No. 7) admitted in his cross-examination that both Hussaini Begum and Sayeedunnisa lived together at Adilabad. In such circumstances, the Trial Court observed that burden was on Defendant No. 7 to prove as to when Sayeedunnisa came over to Hyderabad for execution of the gift deed dated 13.02.1962. The Trial Court also observed that the attesting witnesses of the gift deed were not examined. Besides that, the original of the gift deed was not filed.

19. The Trial Court took notice of the educational certificates of Sayeedunnisa which described her as daughter of Mohd. Shariff. Those certificates relate back to April 1957. Further, service register of Sayeedunnisa disclosed that she was appointed on 14.08.1963 and was recorded therein as daughter of Mohd.

Shariff and wife of Syed Abdul Raheem. The Trial Court placed reliance on those documents and concluded as under:

"These documents are not manufactured or within the handy work of the plaintiff as they were issued by the Osmania University and maintained by the District Educational Officer, Adilabad and they are authenticated documents. Whereas the documents relied by the defendants particularly the xerox certified Urdu documents, gift deed dated 13.02.1962 and sale deed dated 05.07.1976, as already pointed out were not truly authenticated and certified by the translator. There is every possibility of involvement of the persons for getting recitals recorded as per their wish in the said documents. As it is found from the evidence that both Hussaini Begum and late Sayeedunnisa Begum were staying in Adilabad, since the date of appointment and prior to that in Hyderabad taking advantage of their absence perhaps, the above said documents were brought into existence, otherwise no such emphasis would have been laid in the documents particularly in gift deed dated 13.02.1962 that she is daughter of

Ahmed Shareef and subsequently in the sale deed dated 05.07.1976. Further as defendants herein failed to prove the said contents and documents no reliance can be made on the said documents. On the other hand, the evidence of plaintiff's coupled with PW-2 one of the close relatives of all the plaintiff is quite consistent. No doubt, the defendants therein got examined DW-3, who worked as Mali Patel and village assistant aged about 77 years stating that late Mohd. Shareef died issueless, but during cross-examination his performance was questioned wherein he admitted that several complaints were sent against him for extending his service after retirement, that he was also suspended from the job for not implementing resurvey conducted in the year 1983. He also admitted that he cannot say the particulars of the children and brothers of late Mohd. Shareef. In view of such nature of the witnesses, no reliance can be made on his evidence. DW-4 is Defendant No. 8 in the suit and DW-5 is widow of D-1. Since they are related to each other, interested in property, their evidence also cannot be weighed much when compared to the evidence on behalf of the plaintiffs, particularly in view documentary evidence under Exs. A-15 to A-18.

Thus on the basis of the evidence available on record, I am of the opinion that the plaintiffs herein have proved that late Sayeedunnisa Begum was the daughter of late Mohd. Shareef and Smt. Hussaini Begum. This issue is answered accordingly in favour of the plaintiffs."

20. The High Court on the other hand, though noticed the various educational certificates produced by plaintiffs in support of its claim that Smt. Sayeedunnisa Begum was daughter of Mohd. Shariff, while analyzing the evidence, gave no weightage to those documents and placed heavy reliance on the gift deed and mutation order. While giving weightage to the mutation order, the High Court overlooked that mutation proceedings are summary in nature and any decision taken therein is not binding on a Civil Court which can come to its own conclusion based on the evidence on record. Further, educational certificates and entry in public record made in performance of duty are admissible in evidence under Section 35 of 'The Indian Evidence Act, 1872' and they ought to have been considered by

the High Court before reversing the finding of the Trial Court on the issue as to whether Sayeedunnisa Begum was daughter of Mohd. Shariff or not.

21. We are conscious of the law that first appellate court is the final court of fact and can record its own finding being at variance with that of the Trial Court but at the same time it must address all the relevant evidence on record and must test its probative value. And where the trial court has recorded reasons for discarding a piece of evidence it must address the reasons recorded by the trial court while reversing its finding.

22. As we notice from the record that the High Court has not adverted to the reasons recorded by the Trial Court in its judgment and has also not given weightage to the documents i.e., educational certificates/ service records describing Sayeedunnisa as daughter of Mohd. Shariff, which were duly considered by the Trial Court while returning its finding that Sayeedunnisa was daughter of Mohd. Shariff, we

are of the view that matter needs to be remitted back to the High Court for a fresh decision by taking into consideration all the relevant documents that were placed on record by the rival parties.

23. Consequently, the appeals are allowed. Impugned judgment and order of the High Court is set aside. The Appeal Suit No. 256 of 2013 and Cross Appeal S.R. No. 7003 of 2013 shall stand restored on the file of the High Court for a fresh decision in accordance with law.

24. Pending application(s), if any, shall stand disposed of. Parties to bear costs.

.....J
[MANOJ MISRA]

.....J
[UJJAL BHUYAN]

New Delhi
November 11, 2025.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCIVIL APPEAL No(s). 14222-14223/2025
@SLP (CIVIL) No(s). 25194-95/2023

[Arising out of impugned final judgment and order dated 25-04-2023 in AS No. 256/2023 25-04-2023 in X-OBJ No. 7003/2013 passed by the High Court for The State of Telangana at Hyderabad]

SYED ABDUL HAKEEM & ORS.

Petitioner(s)

VERSUS

AHMED MUJTABA SHAREEF & ORS.

Respondent(s)

IA No. 119890/2025 - APPROPRIATE ORDERS/DIRECTIONS

Date : 11-11-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) :

Mr. Vipin Sanghi, Sr. Adv.
Mr. Yashaswi Sk Chocksey, Adv.
Mr. Santosh Kumar Yadav, Adv.
Mr. Sravan Kumar Karanam, AOR

For Respondent(s) :

Mr. Ranjay Kumar Dubey, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeals are allowed in terms of the signed order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of. Parties to bear costs.

(CHETAN ARORA)
ASTT. REGISTRAR-cum-PS(CHETNA BALOONI)
COURT MASTER (NSH)