



CNR No.-UPVR010026352026
In the Court of District Judge, Varanasi
Presided Over by:-Sanjeev Shukla (H.J.S.)
Civil Revision No.-45/2026

- 1- Smt. Bela Sharma W/o Bhaskar Sharma
- 2- Shubham Sharma S/o Bhaskar Sharma
- 3- Saurabh Sharma S/o Bhaskar Sharma

All residents of House No.-D 5/98A Tripura Bhairvi Shahar, District Varanasi.

.....Revisionists/Plaintiffs.

Versus

- 1- Aniket Sharma S/o Ravi Sharma
- 2- Kumari Tanya Sharma D/o Ravi Sharma

All residents of House No.-D 6/23 Rani Bhawani Gali, District Varanasi.

.....Defendants/Opposite Parties.

Judgment

1. This Civil Revision has been preferred by the Revisionists against the order dated 16.01.2026 passed by Additional Civil Judge (Jr.Div.), Court No.-5, Varanasi in Case No.-813/2012, Smt. Bela Sharma and others Vs. Ravi Sharma and others whereby learned trial court rejected the Application 61A under Order 1 Rule 10 and Order 6 Rule 17 C.P.C. filed by the revisionists/plaintiffs.

2. In briefly stated facts of the case are that the revisionists/plaintiffs had filed an Application 61A under Order 1 Rule 10 and Order 6 Rule 17 C.P.C in the trial court stating that Bhaskar Sharma (Defendant No.-4), husband of Plaintiff No. 1 and the father of Plaintiffs No. 2 and 3 has been missing from home since 12.11.2009. At the time of filing of the original suit, a period of more than seven years had not been elapsed, therefore, relief regarding declaration of his "civil death" could not be sought in the plaint. At present, more than seven years have been elapsed since the disappearance of defendant no.4. Therefore, it was prayed to implead the State of U.P. as necessary party to the suit as a defendant. It has also been sought for incorporating necessary amendments as specified in the application.

3. Per contra, in writing, the defendants/opposite parties have strongly

objected on the Application 61A though observation of impugned order and order sheet dated 06-02-2025 reveal that respondent/defendants did not object the application 61A during the oral arguments.

4. After hearing both the parties, learned trial court rejected the plaintiffs' Application No. 61A seeking declaration of civil death of Defendant No. 4, on the ground that it would change the nature of the suit and passed the impugned order dated 16.01.2026.

5. Revisionists have mainly stated in the revision that at the time of filing the suit relief regarding the declaration of Shri Bhaskar Sharma's 'civil death' could not be sought. The original suit was filed seeking partition of the disputed property wherein the plaintiffs and defendants each hold half of the shares respectively over the disputed property. The amendments sought vide application 61A were necessary for the declaration of the 'civil death' of defendant no.-4 Bhaskar Sharma. During pendency of the suit, after the death of the parents of defendants, a compromise executed between the parties, therefore, learned counsel for the opposite parties endorsed no objection on application 61A. The rejection of amendment application 61A would cause undue delay in filing separate suit and plaintiffs/revisionists will suffer irreparable loss. Therefore, it has been prayed to allow the revision and set aside the impugned order dated 16.01.2026.

6. Learned counsel for the revisionists has drawn attention of the court on case law of Hon'ble Supreme Court **Pankaj and another Vs. Yellappa (D) by Lrs. and others.**

7. Learned counsel for the Opposite parties raised oral objections and prayed to reject the revision petition.

8. I have heard both the parties and perused the records.

9. A perusal of record shows that the original suit was filed for the relief of the partition of the property against the respondents/defendants. Later on, revisionists/plaintiffs filed, amendment application 61A, under Order 1 Rule 10 and Order 6 Rule 17 of CPC, seeking declaration of "civil death" of defendant No. 4. with other consequential amendments. Though the original suit was filed for the partition of the property, which is a separate cause of action. Later on, revisionists/plaintiffs cannot seek a totally different cause of action in previously pending original suit. Two entirely different relief cannot be sought in one Suit.

10. Therefore, this court is of the considered opinion that impugned order dated 16.01.2026 passed by the learned trial court is as per law, as there is no illegality or manifest error in the impugned order. Therefore, this civil revision is

liable to be dismissed.

Order

Civil Revision is dismissed. Impugned Order dated 16.01.2026 passed by the learned trial court is hereby affirmed.

Let the record of trial court be sent forthwith alongwith copy of this order. File of this civil revision be consigned to the record room as per rules.

Date: 27-07-2026

(Sanjeev Shukla)
District Judge,
Varanasi.
J.O.Code-U.P.1900

The judgment is signed, dated and pronounced by me in the open court today.

Date: 27-07-2026

(Sanjeev Shukla)
District Judge,
Varanasi.
J.O.Code-U.P.1900