



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

FA No. 179 of 2017

1 - Vijay Lal Soni (Dead) Through Lrs.

1 (A) - Smt. Janki Soni W/o Late Vijay Lal Soni Aged About 70 Years R/o Lili Chowk, Purani Basti, Raipur Chhattisgarh.

1 (B) - Savita Soni W/o Badri Soni Aged About 52 Years D/o Vijaylal Soni, R/o Indian Gas Godown, Daganiya, Raipur., District : Raipur, Chhattisgarh

1 (C) - Sunita Soni W/o Rakesh Soni Aged About 46 Years R/o Sonarpara, Near Shitla Mandir, Rajnandgaon Chhattisgarh.

1 (D) - Farha Sharif W/o Aslam Sharif Aged About 40 Years Near Darga, Baijnathpur, Motibagh, Raipur Chhattisgarh.,

... Appellant (s)

versus

1 - Sheshnarayan Tamrakar S/o Late Kishanlal Tamrakar, Aged About 52 Years R/o Lili Chowk, Near Saraswati School, Raipur, Tahsil And Distt. Raipur, ChhattisgarhPlaintiff,

2 - Smt. Shakuntala Bai Soni W/o Late Mangan Lal Soni, Aged About 68 Years R/o Lohar Chowk, Purani Basti Tahsil And Distt. Raipur, At Present R/o C/o Near Muktidham, Pahli Gali, Shanker Nagar Road, Durg, Chhattisgarh,

3 - Smt. Kevra Bai Dead Through Lrs

3 (A) - Smt. Chitralekha W/o B Soni, Aged About 60 Years

3 (B) - Santosh Soni S/o Late T.L.Soni, Aged About 52 Years

3 (C) - Laxmi Soni D/o Late T.L.Soni, Aged About 45 Years

3 (D) - Vinod Soni S/o Late T.L.Soni, Aged About 42 Years

3 (E) - Reshmi Soni D/o Late T.L.Soni, Aged About 40 Years.

Respondents No. 3(A) to (E) are R/o Kachhari Para, Kawardha, Chhattisgarh.

... Respondent(s)

For Appellant : Mr. Parag Kotecha, Advocate.

For Resp. No. 1 : Mr. Amit Kumar Sahu, Advocate.

For Resp. No. 2 : Mr. K.P.S. Gandhi, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

ORDER ON BOARD

29/07/2025

1. This First Appeal appeal has been filed by the appellant/defendant under Section 96 of the C.P.C. against judgment and decree dated 25.03.2017 (Annexure A/1) passed by the Second Additional Judge to

the Court of First Additional District Judge, Raipur, District- Raipur (C.G.) in Civil Suit No. 37A/2011 by which the suit preferred by the respondent/plaintiff against the appellant/defendant has been allowed.

2. Learned counsel for the appellant would submit that during pendency of the appeal, appellant No. 1(A)- Janki Soni & respondent No. 2- Smt. Shakuntala Bai Soni have expired, therefore, he has filed I.A. No. 06/2024 which is an application for deletion of name of appellant No. 1(A) & respondent No. 2. from the cause title.
3. Learned counsel for respondent No. 2 would submit that during life time, respondent No. 2- Shakuntala Bai had executed a Will dated 30.11.2021 in favour of Yatindra Kumar Soni who has acquired the right and title over the suit property of respondent No. 2. He would further submit that during pendency of the appeal, respondent No. 2- Smt. Shakuntala Bai has expired on 07.05.2023, therefore, he has filed I.A. No. 07/2024 which is an application for grant of permission to substitute the name of proposed respondent i.e. Yatindra Kumar Soni, S/o Late Sunder Lal Soni, aged about 61 years, R/o Road No. 09, Gali No. 1, Near Bade Puliya, Shankar Nagar Durg, Tahsil & District- Durg (C.G.), in place of respondent No. 2-Smt. Shakuntala Bai on the strength of Will and a copy of the Will has also been enclosed along with the application.
4. Learned counsel for the appellant raised serious objection regarding legal validity of the legal heirs of respondent No. 2 with respect to capacity to continue with the present appeal as enquiry is required as provided under Order 22 Rule 5 of the C.P.C.
5. I have heard learned counsel for the parties and perused the documents placed on record with utmost satisfaction.

6. Since there is objection with regard to substitution of legal representative of respondent No. 2 and Order 22 Rule 5 of the C.P.C. provides for determination of legal representatives when a party to a suit dies during the proceedings. This provision of the C.P.C. also provides that the court must conduct an enquiry to ascertain the proper legal representatives who are to be substituted for the deceased party. This determination is made through a summary enquiry, and the court is not required to conduct a detailed or lengthy investigation into the substantive rights of the deceased's estate.
7. In view of the above, the learned trial Court is directed to conduct an enquiry regarding status of legal representative of respondent No. 2- Smt. Shakuntala Bai and submit report before this Court within three weeks from the date of receipt of copy of this order along with the record of the case.
8. Registry is directed to send original record to the concerned trial Court for conducting the enquiry as aforestated and the trial Court is directed to send back the same after conducting enquiry along with its report. Registry is also directed to keep scanned record of the original record.
9. The parties are directed to present before the trial Court on **12th August, 2025**.
10. List this appeal before this Court on **4th November, 2025**. The interim order passed earlier shall continue till the next date of hearing.

Sd/-
(Narendra Kumar Vyas)
Judge