



2026:CGHC:4257

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CR No. 30 of 2026**

1 - Vijay Kumar Joshi S/o Late Badrinarayan Joshi, Aged About 65 Years At Present R/o Near Civil Court, Kurud, Behind Shri Madhu Traders, Rajim Ring Road, Kurud, District- Dhamtari (C.G.) Previous Address Street No. 3, Vivekanand Nagar, Dhamtari, Tahsil And District- Dhamtari (C.G.)

... Applicant**versus**

1 - Kamrun Nisha W/o Ahmed Raza, Aged About 57 Years R/o Amapara, Dhamtari, Tahsil And District- Dhamtari (C.G.)

2 - Ahmed Raza S/o Late Mohd, Doud Raza, Aged About 54 Years R/o Amapara, Dhamtari, Tahsil And District- Dhamtari (C.G.)

3 - Suresh Kumar Joshi S/o Late Badrinarayan Joshi, Aged About 54 Years Caste Brahman, R/o Dock Bungalow Ward Nehru Garden In Front Of P.W.D. Office Durg Road Dhamtari , Tahsil And District- Dhamtari (C.G.)

4 - Santosh Kumar Joshi S/o Late Badrinarayan Joshi Aged About 50 Years Caste Brahman, R/o Dock Bungalow Ward Nehru Garden In Front Of P.W.D. Office Durg Road Dhamtari , Tahsil And District- Dhamtari (C.G.)

5 - Prakash Kumar Joshi S/o Late Badrinarayan Joshi Aged About 70 Years R/o Street No. 3 Vivekanand Nagar Dhamtari, Tahsil And District- Dhamtari (C.G.)

6 - Shridhar Joshi S/o Late Badrinarayan Joshi Aged About 72 Years Caste Brahman, R/o Dr. Bajpai Gali Vivekanand Nagar Dhamtari, Tahsil And District- Dhamtari (C.G.)

7 - Vasudev Joshi S/o Late Badrinarayan Joshi Aged About 60 Years Caste Brahman, R/o Near Calltax Petrol Pump, Dhamtari, Tahsil And District- Dhamtari (C.G.)

8 - Saroj Joshi D/o Late Badrinarayan Joshi Aged About 52 Years Caste Brahman, R/o Plot No. 72, Sneh Nagar, Vardha Road, Tahsil And District- Nagpur (Maharashtra)

9 - State Of Chhattisgarh Through The Collector, Dhamtari District- Dhamtari (C.G.)

... Respondent(s)



(Cause-title is taken from Case Information System)

For Applicant : Mr. Sanjeev Kumar Sahu, Advocate

For State : Mr. Sangharsh Pandey, Government Advocate

(Hon'ble Shri Amitendra Kishore Prasad, Judge)

Order on Board

23/01/2026

1. This revision has been filed aggrieved by the order dated 05.12.2025 passed by the learned First District Judge, Dhamtari (C.G.) in Civil Suit No. 05-A/2025 (Annexure A/1), whereby the application filed by the applicant under Order VII Rule 11 of the Code of Civil Procedure was rejected.
2. Facts of the case, as projected by the applicant, is that the applicant herein is defendant No.1 in Civil Suit No. 05-A/2025, wherein the respondents/plaintiffs have instituted a suit seeking declaration of title, confirmation of possession, declaration that the mutation entries are null and void, and further for specific performance of contract. The case of plaintiff No.1/respondent No.1, as pleaded in the plaint, is that he allegedly purchased land bearing Sheet No. 6, Khasra No. 200/2, Plot No. 3/10, admeasuring 2135 sq.ft., situated at Risaipara, West Ward No. 16, P.H. No. 16, R.I.C., Tahsil and District Dhamtari (C.G.), from defendant No.3 vide registered sale deed dated 29.03.2011, and



that since the date of the said sale deed he is in possession of the said land. It is further the case of plaintiffs/respondents No.1 and 2 that a double-storeyed house comprised in Khasra Nos. 6/12, 6/25, 68/1, 69/1-70, 71/19, admeasuring 2000 sq.ft., situated at Vivekanand Colony, Street No.3, Dhamtari, Tahsil and District Dhamtari (C.G.), was agreed to be purchased by the plaintiffs from defendant No.4, namely Vijay Joshi, on 25.05.2011. It is alleged that on the said date an advance amount of Rs.50,000/- was paid and thereafter a total amount of Rs.20,00,000/- was paid from time to time up to 18.11.2015. According to the plaintiffs, on 18.11.2015 possession of the said house was delivered to them by defendant Vijay Joshi, who allegedly agreed to execute a registered sale deed after receipt of the remaining consideration of Rs.2,00,000/-. It is further alleged that despite repeated requests, defendant Vijay Joshi avoided execution of the registered sale deed. Subsequently disputes arose among the defendants regarding the subject land, pursuant to which mutation was effected in the names of Prakash Joshi and Vijay Kumar Joshi by order of the Tahsildar. The said mutation order was challenged after a delay of more than one year and one month before the Sub-Divisional Officer (Revenue), which challenge came to be dismissed. Thereafter, proceedings were initiated and ultimately the names of defendants Suresh Kumar Joshi and Santosh Kumar Joshi were mutated in the revenue records.



Against the mutation in favour of Suresh Kumar Joshi and Santosh Kumar Joshi, Writ Petition (227) No. 493 of 2013 was filed before this Hon'ble Court, which was allowed and the matter was remitted back to the Sub-Divisional Officer (Revenue). However, without any effective appellate order, the said Suresh Kumar Joshi and Santosh Kumar Joshi again got their names mutated and subsequently sold the land to Smt. Kamrunisha, the plaintiff/respondent. Thereafter, by order dated 09.02.2016, the Sub-Divisional Officer (Revenue) decided the appeal on merits and set aside the mutation order dated 07.06.2008 and certification dated 05.07.2008. The appeal preferred against the said order before the Commissioner, Raipur was dismissed on 04.01.2017, and the revision filed before the learned Board of Revenue was also dismissed by order dated 29.01.2024. The said orders were further affirmed by this Court in W.P.(C) No. 1018/2024 vide order dated 18.09.2024. It is further pleaded by the plaintiffs that defendants Suresh Kumar Joshi and Santosh Kumar Joshi had filed an application under Sections 145 and 146 of the Cr.P.C., registered as Criminal Case No. 391/2011, which was dismissed by order dated 28.03.2013. The revision thereagainst, being Criminal Revision No. 17/2013, was also dismissed by the learned Additional Sessions Judge, Dhamtari. Further, Cr.M.P. No. 376/2014 filed before this Court was dismissed on 24.06.2016, thereby confirming possession of the



plaintiffs over the subject property, pursuant to which the present civil suit was filed.

3. Upon service of summons, the applicant/defendant No.1 filed his written statement denying all the plaint allegations. The applicant thereafter filed an application under Order VII Rule 11 of the Code of Civil Procedure, contending that the suit for declaration of title is based on the alleged sale deed dated 29.03.2011 and the relief of specific performance is based on the alleged agreement dated 25.05.2011, and thus the suit is hopelessly barred by limitation and not maintainable in law. The respondents/plaintiffs filed a reply opposing the said application, contending that the suit is not barred by limitation and praying for dismissal of the application. After hearing the parties, the learned Trial Court, by the impugned order dated 05.12.2025, rejected the application filed under Order VII Rule 11 CPC by holding that the suit is not barred by limitation. Being aggrieved by the said order, the applicant has preferred the present petition.
4. Learned counsel for the applicant submits that the impugned order dated 05.12.2025 passed by the learned Trial Court is bad in law, perverse, illegal and erroneous. The learned Court below has failed to appreciate the settled legal position governing the exercise of jurisdiction under Order VII Rule 11 of the Code of Civil Procedure and has mechanically rejected the application,



thereby rendering the impugned order liable to be set aside. It is further submitted that the respondents/plaintiffs have instituted the civil suit seeking declaration of title on the basis of an alleged registered sale deed dated 29.03.2011 and have also sought specific performance of contract on the basis of an alleged transaction dated 25.05.2011. On a bare reading of the plaint itself, the suit is ex facie barred by limitation. Hence, the plaint deserved rejection under the provisions of Order VII Rule 11 CPC, as the suit is not maintainable in the eyes of law. Learned counsel submits that even as per the plaintiffs' own pleadings, the last payment towards the alleged sale consideration was made on 18.11.2015. However, the present suit has been instituted only in the year 2025, i.e., after a lapse of more than seven years from the date of the alleged last payment. Thus, the suit for specific performance as well as for declaration is clearly beyond the prescribed period of limitation and is liable to be rejected at the threshold. It is further contended that the civil suit having been filed in the year 2025, much beyond the statutory period of limitation, is clearly barred and not maintainable. The learned Trial Court has committed a grave error in ignoring this patent legal bar apparent on the face of the plaint and in refusing to exercise jurisdiction under Order VII Rule 11 CPC. Learned counsel also submits that prima facie the present civil suit is barred by the principles of res judicata inasmuch as the issues relating to title,



possession and mutation of the subject property have already been adjudicated upon in earlier proceedings between the parties. Therefore, the learned Trial Court ought to have rejected the plaint at the initial stage instead of permitting the continuation of a vexatious and barred litigation. In view of the aforesaid submissions, it is prayed that this Court may be pleased to set aside/quash the impugned order dated 05.12.2025 and allow the application filed by the applicant under Order VII Rule 11 of the Code of Civil Procedure, thereby dismissing the suit, in the interest of justice.

5. Learned State counsel opposes the submissions advanced on behalf of the applicant and submits that the impugned order dated 05.12.2025 does not suffer from any illegality or perversity. It is submitted that the learned Trial Court has rightly rejected the application under Order VII Rule 11 CPC after considering the pleadings in the plaint and holding that the suit is not barred by limitation. It is further submitted that at the stage of consideration under Order VII Rule 11 CPC, only the averments made in the plaint are required to be seen and no disputed questions of fact can be adjudicated. The issues raised by the applicant relating to limitation and res judicata involve mixed questions of law and fact, which can only be decided after evidence is led and cannot be made a ground for rejection of the plaint at the threshold. Learned State counsel further submits that the revision lacks merit, calls for



no interference by this Court, and is liable to be dismissed.

6. I have heard learned counsel for the parties and perused the record with due care.
7. At the outset, it is well settled that while considering an application under Order VII Rule 11 CPC, the Court has to look only into the averments made in the plaint and the documents relied upon therein. The defence raised in the written statement or the pleas of the defendant are wholly irrelevant at that stage. The plaint can be rejected only if, on its face, it is barred by any law.
8. On a careful reading of the plaint, it is apparent that the plaintiffs have not only pleaded execution of documents and payment of consideration, but have also pleaded continuous cause of action arising out of refusal to execute sale deed, disputes regarding mutation, subsequent revenue proceedings, criminal proceedings and finally affirmation of their possession by this Court in earlier proceedings. The plaint further discloses that the plaintiffs claim subsisting rights and continuing injury, which according to them culminated in filing of the civil suit. The plea of limitation raised by the applicant is not such which can be conclusively decided merely on the basis of the dates mentioned in the plaint, without examining the nature of the cause of action, the effect of subsequent proceedings and the plea of continuous cause of action as asserted by the plaintiffs. Whether the suit is barred by



limitation would necessarily require appreciation of evidence and cannot be decided at the threshold by rejecting the plaint. Similarly, the plea of res judicata cannot be adjudicated in an application under Order VII Rule 11 CPC unless the bar is apparent on the face of the plaint itself.

9. From the plaint averments, it cannot be conclusively held that the issues raised in the present suit were directly and substantially in issue and finally decided between the parties in the earlier proceedings. The applicability of res judicata is therefore a mixed question of law and fact, which can be decided only after parties lead evidence. The learned Trial Court has, therefore, rightly held that the issues raised by the applicant require trial and cannot be a ground for rejection of the plaint at the inception. This Court does not find any perversity, illegality or jurisdictional error in the impugned order warranting interference in revisional jurisdiction.
10. It is trite law that the power under Order VII Rule 11 CPC is drastic in nature and must be exercised sparingly and only in cases where the suit is clearly barred by law on the face of the plaint. The present case does not fall in such category. In view of the aforesaid discussion, this Court is of the considered opinion that the learned Trial Court has passed a reasoned and well-considered order, which does not suffer from any infirmity.
11. Accordingly, the civil revision is devoid of merit and deserves to be



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dismissed. The impugned order dated 05.12.2025 passed by the learned First District Judge, Dhamtari (C.G.) in Civil Suit No. 05-A/2025 is hereby affirmed.

No order as to costs.

Sd/-

(Amitendra Kishore Prasad)

JUDGE

Shayna