



2026:CGHC:9867



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HIGH COURT OF CHHATTISGARH AT BILASPUR

CR No. 61 of 2026

Ajay Kumar Xess S/o Ghasiram Aged About 46 Years R/o Village Kashmiri Gali (Darrapara), Patthalgaon, Tahsil Patthalgaon, District Jashpur Chhattisgarh (Defendant No. 5)

...Applicant.

versus

1 - Anand S/o Late Birbal Aged About 38 Years.

2 - Anima D/o Late Birbal Aged About 32 Years.

3 - Anita D/o Late Birbal Aged About 29 Years.

4 - Vinita D/o Late Birbal Aged About 26.

5 - Smt. Nonibai W/o Late Birbal Aged About 55 Years.

Plaintiffs/Respondent Nos.1 to 5 R/o Village Kashmiri Gali, (Darrapara) Patthalgaon, Tahsil Patthalgaon, District Jashpur Chhattisgarh

6 - Shobhan S/o Badru Aged About 90 Years (Defendant No. 1)

7 - Bhikhani D/o Shobhan Aged About 50 Years (Defendant No. 2)



8 - Mayawati D/o Shobhan Aged About 46 Years (Defendant No. 3)

9 - Tilwati D/o Shobhan Aged About 43 Years (Defendant No. 4)

10 - State Of Chhattisgarh Through District Collector, Jashpur Chhattisgarh.

... Respondent(s)

For Applicant	:	Shri Hari Agrawal, Advocate.
For State/Res.	:	Shri Dilman Rati Minj, Deputy AG.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

25/02/2026

1. This Civil Revision has been filed against the order dated 17.07.2025 passed by the Civil Judge Junior Division, Pathalgaon, District Jashpur C.G. in Civil Suit No.A/31/2024 by which, application preferred by the applicant/Defendant No.5 under Order 7 Rule 11 CPC has been rejected.
2. Brief facts of the case are that the plaintiff/respondent No.1 to 5 herein filed a civil suit for declaration of title, partition, separate possession, permanent injunction with respect to the properties mentioned in Schedule 'A' annexed with the plaint. Further, a separate relief qua the Schedule 'B' property praying for a declaration to the effect that the registered sale deed dated 20.09.2024 executed by defendant No.1 in favour of defendant No.5 is null and void, not binding and as such, be cancelled was also sought. That, the relevant averments of the plaint, necessary



and in relation to the parties in the instant petition, are mentioned herein as under :- (i) The plaintiffs and defendant No.1 belong to the same family and are members of Scheduled Tribe community. Further, they held a total land comprising of 7 khasra numbers, total admeasuring 2.569 hectares, situated at village Patthalgaon, P.H. No.6, R.N.M. Patthalgaon, Tahsil Patthalgaon, District Jashpur (C.G.) (referred as 'the suit property' mentioned in Schedule 'A' and 'B' annexed with the plaint). The Schedule 'A' properties [comprising of six Khasra numbers] were originally recorded in the name of their ancestor namely Bandaru, son of Bhokla Uraon (who happens to be the father of defendant No.1). Further, said Bhokla Uraon had four sons namely Bandru, Bhondu, Jangli and Futahu. That, the defendant No.1 had obtained the Schedule 'A' property in partition amongst his brothers, therefore, in the relevant revenue records (Adhikar Abhilekh of the year 1954-1955), after the death of Bhokla, name of all his four sons were recorded and after that in the year 1966-67, partition amongst aforesaid Bandru and his brothers took place, and after the death of Bandru, name of Defendant No.1 has been recorded in the relevant revenue record. That, the only son of defendant No.1 namely Birbal predeceased him on 25.04.1996 and the plaintiffs are the grandson and daughters of defendant No.1. Further, the defendant No.2 to 4 are the children born out of the mistress of the defendant No.1. That, in the year 1972, defendant No.1 had purchased a land situated at Kh. No.1193/8,



[mentioned in Schedule 'B' annexed with the plaint] area 0.937

hectares, for a consideration of Rs.500/- from one Lodo Uraon.

[as averred in para 6 of the plaint]. Further, in the year 1972 itself, in the other ancestral properties, the name of defendant No.1, Shobhan and their mother namely Budhia was recorded. That, defendant No.2 to 4 taking advantage of the old age of defendant No.1 and in connivance with each other, got a sale deed dated 20.09.2024 executed by the defendant No.1 in favour of defendant No.5, selling the Schedule 'B' properties at a consideration of Rs.2 Lakh. That, it was the averment of the plaintiffs that although Schedule 'B' property is the self-acquired property, but the defendant No.1 has no right to sell the said property without any legal necessity and without taking the permission of the plaintiffs. Further, the said Schedule 'B' property has been purchased by the defendant No. 1 out of the income generated from the ancestral property, as such, the plaintiffs also have an equal right over the said Schedule 'B' property, therefore, the defendant No.5 had no right and title over the said property and since the said document has been fraudulently executed, therefore, the said registered sale deed dated 20.09.2024 is null and void. That, thereafter notices were issued to the defendants and upon service of notice the defendant No.5/petitioner [wrongly mentioned as Defendant no. 4 in the application] had filed an application under Order 7 Rule 11 for rejection of the Plaint. Instead of repeating the averments made in the application, the



petitioner herein is filing herewith the copy of the application as Annexure P-4. That, it was the case of defendant no. 5/petitioner herein that by way of the plaint, the plaintiffs are not only seeking a declaration that the registered sale deed is null and void but has also claimed a consequential relief of possession. Further, for the aforesaid purpose, the Plaintiff has also valued the plaint for the said purpose at Rs. 3 Lakh, however, instead of paying ad-valorem court fees on the said valuation, the plaintiffs have affixed a fixed court fee of Rs.200 only. That, to the aforesaid application, the plaintiffs filed their reply stating that the plaintiffs have sought a relief of declaration and a relief of injunction has been sought on the ground of established possession, which is not a consequential relief, therefore, the provisions of Section 7(iv)(d) would be application in the facts of the case. Thereafter, by order dated 17.07.2025, the learned Court below rejected the application of the petitioner holding that the plaintiff has rightly valued the suit as well as rightly affixed the court fees on the said valuation. That, being aggrieved by the said order of dismissal of application, the petitioner has been left with no option but to invoke revisionary jurisdiction of this Hon'ble Court.

3. Learned counsel for the applicant submits that dismissal of application under Order 7 Rule 11 CPC by the learned trial Court is *per se* illegal as the trial Court has not considered the very aspect of the matter that the court fees which is required to be paid by the plaintiff has not been paid by him and as such, on this



ground alone, plaint is required to be rejected under Order 7 Rule 11 CPC.

4. I have heard learned counsel for the parties and perused the material available with the petition.
5. From the perusal of the material available with the revision, it appears that the plaintiff has paid the court fess as per the averments made and the reliefs sought by him. Further, for deciding an application under Order 7 Rule 11 CPC, only plaint averments are required to be seen. The defense which is being raised either in the form of written statement or in the form of application under Order 7 Rule 11 CPC is not required to be seen at the stage of deciding the said application, as such, I do not consider present to be a fit case for interference in the impugned order passed by the trial Court.
6. However, the concerned trial Court is directed to frame specific issues in respect of valuation and payment of court fees and shall decide the same in accordance with law.
7. With the aforesaid observation/direction, this Civil Revision stands disposed of.

Sd/-

(Amitendra Kishore Prasad)

Judge