

**HIGH COURT OF CHHATTISGARH AT BILASPUR****FA No. 161 of 2018****Haseena Begum *Versus* Ramavatar Agrawal****Order on Board**

28/10/2025	Ms. Fouzia Mirza, Sr. Advocate with Ms. Rashika Soni, counsel for appellants. Mr. H.B. Agrawal, Sr. Advocate with Ms. Swati Agrawal, counsel for respondent No.1. Heard. Learned counsel for appellants during course of arguments has also raised the ground of limitation of filing of the subsequent suit under the head of partition and possession to be barred by limitation on the ground that suit was filed mentioning that cause of action arose when judgment debtors have raised an objection in an execution proceeding of the separate possession to the extent 33/40 as ordered by the learned trial Court in judgment and decree in Civil Suit No.151A/1965. She also contended that plaintiff has taken cause of action from the date of passing of an order by High Court in a review application observing that for relief of possession, the review applicant is having the remedy to file suit for partition and possession.



	She contended that by order of the Court, period of limitation cannot be extended. Limitation would start from the date when the cause to sue accrues in favour of plaintiff and in this case, the respondent/plaintiff, who wants to get possession of the part of the suit property pursuant to the sale deed executed in his favour by the trial Court/Executing Court on 11.03.1991. Though it is a contention of learned counsel for appellants that even from the date of getting the sale deed registered in favour of respondent/plaintiff, the suit for partition and possession is to be hopelessly barred by limitation, however, she also contended that sale deed which is made basis for filing of the suit earlier, one another sale deed was executed under Order 21 Rule 34 of C.P.C. by Court pursuant to the same judgment and decree passed by learned trial Court in its judgment and decree dated 14.12.1967 in Civil Suit No.151-A/1965. She submits that during pendency of this appeal, appellants came to know that earlier, sale deed was executed by learned trial Court/Executing Court on 07.12.1968 in execution proceeding in favour of father of plaintiff, who was plaintiff, pursuant to judgment and decree, in earlier suit filed for specific performance of contract. She submits that once the Court has already executed the sale deed, under Order 21 Rule 34 of C.P.C., then there cannot be sale deed to be executed by the Court based on the same judgment and decree passed by learned trial Court in suit of specific performance of contract dated 14.12.1967. She also contended that looking to the nature of dispute and submission made by learned counsel for respective parties, this Court vide order dated 27.02.2025 has called for records of the Execution Case No.151-A/65 from the Court at Raipur.
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Balram	Photocopy of the record is available in the record of this first appeal. Photocopy of the order-sheets of the record of Execution Case No.151-A/1965 would show that the order-sheets appears to be from the year 1988, however, the application for execution of judgment and decree dated 14.12.1967, order sheet earlier to the year 1988 is not forming part of it. In the above facts of the case, the entire records of the Execution Case No.151-A/1965 would be necessary for just decision of this appeal. Registry is directed to call for photocopy of remaining part of records, which could not have been sent pursuant to the order dated 22.07.2025 of this Court. List this case in the week commencing 17th of November, 2025. Interim relief granted earlier shall continue till the next date of hearing. Sd/- (Parth Prateem Sahu) Judge
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