



2025:CGHC:39244



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 341 of 2024

1 - Shyam Sundar S/o Late Chandrabhanu Aged About 49 Years R/o Vill. Midmida Tahsil Pusour, District : Raigarh, Chhattisgarh

... Petitioner(s)

versus

1 - Ghasiram S/o Late Madhusudan Aged About 68 Years R/o Vill. Midmida, Tahsil Pusour, District Raigarh, Chhattisgarh.

2 - Goverdhan S/o Late Madhusudan Aged About 62 Years R/o Vill. Midmida, Tahsil Pusour, District Raigarh, Chhattisgarh.

3 - Biharilal S/o Late Madhusudan Aged About 58 Years R/o Vill. Midmida, Tahsil Pusour, District Raigarh, Chhattisgarh.

4 - Tarini S/o Late Bhakto Aged About 58 Years R/o Vill. Midmida, Tahsil Pusour, District Raigarh, Chhattisgarh.

5 - Theena S/o Late Bhakto Aged About 40 Years R/o Vill. Midmida, Tahsil Pusour, District Raigarh, Chhattisgarh.

6 - Bodhiram S/o Late Upendro Aged About 65 Years R/o Village Amlidih, Tehsil Gharghoda, District Raigarh, Chhattisgarh.

7 - State Of Chhattisgarh Through By The District President Raigarh, Tahsil-Raigarh, District Raigarh, Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Ravi Kumar Banjare, Advocate.
For Respondent/ State	:	Shri Vedant Shadangi, P.L.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

06.08.2025



1. The petitioner has filed this petition seeking the following reliefs:-

“10.1 That, the Hon'ble Court may kindly be pleased to allow this petition and set aside the impugned Order Passed by Learned 3rd Civil Judge Class- 2, Raigarh dated 23.02.2024 in MJC of the Civil Suit A/ Case No. 82/2022 (Annexure P/1), in the interest of justice.

10.2 Any other relief deemed fit in the facts and circumstances of the case may also be granted.”

2. Learned counsel for the petitioner would submit that earlier a suit was filed by the petitioner for permanent injunction and partition pertaining to survey numbers mentioned herein below, situated at Village Midmida, Tahsil Pusour, District Raigarh:-

अनुसूची क

यादीगण एवं प्रतिवादी का० 1 से 4 के नाम से ग्राम गिडगिडा, प०८०१० 22. रा०नि०म० व तह० पुसौर, जिला रायगड (७०१०) दर्ज भूमि का विवरण निम्नानुसार है-

खसरा न०	रकबा	खसरा न०	रकबा
6/1	0.729 हे०	9	0.789 हे०
29	0.121 हे०	37/1	0.550 हे०
198	0.360 हे०	292	0.049 हे०
294	0.057 हे०	305	0.364 हे०
368	0.332 हे०	386/1	0.162 हे०
511	0.109 हे०		
योग – 11	3.622 हे०		

अनुसूची अ

वादीगण के हिस्सा एवं कब्जे की ग्राम मिडमिडा, प०ह०न० 22, रा०नि०सं० व तह० पुसौर, जिला रायगड (छ०ग०) स्थित भूमि का विवरण निम्नानुसार हैं :-



खसरा न०	रकबा	खसरा न०	रकबा
6/1	0.426 हे०	9	0.239 हे०
29	0.121 हे०	37/1	0.121 हे०
198	0.360 हे०	368	0.080
292	0.049 हे०		
योग – 7	1.396 हे०		

अनुसूची ब

प्रतिवादी क० 2 व 3 के पिता रथ० भक्तों द्वारा यादीगण के पिता स्व० मधुसूदन के पास विक्रय की गई भूमि का विवरण निम्नानुसार है -

खसरा न०	रकबा
6/1 से	0.25 डिस० (0.101 हे०)
9 से	0.50 डिस० (0.202 हे०)
368 से	0.20 डिस० (0.081 हे०)
योग 3	0.95 डिस०

- Learned counsel for the petitioner would contend that a civil suit filed by the petitioner bearing Civil Suit No.125A/ 2013 was dismissed by the learned First Civil Judge, Class-II, Raigarh, vide judgment and decree dated 29.2.2016. He would contend that respondents No.1 to 3 have filed a fresh suit for declaration of title, confirmation of possession and permanent injunction pertaining to the survey numbers mentioned above. Learned counsel for the petitioner would further contend that the issues raised in the subsequent suit have already been adjudicated in the earlier suit, and therefore, the subsequent suit is barred by the principle of *res judicata*. He would also contend that an application under Section 11 of CPC was filed, which has been rejected by the



learned trial Court. Accordingly, he would pray that this petition be allowed.

4. On the other hand, learned counsel for the State would oppose the submissions made by counsel for the petitioner.
5. I have heard learned counsel for the parties and perused the documents present on the record.
6. Earlier, a suit was filed by the petitioner claiming therein partition and permanent injunction, and in that suit, the learned trial Court framed the following issues:-

(1) Whether the plaintiff is entitled to partition of the suit property mentioned in Schedule-A?

(2) Whether Madhusudhan was adopted by the wife of Ramesh, namely Mali, as stated in Schedule-B?

(3) Whether the defendants are interfering with the peaceful possession of the plaintiff?

These issues were decided against the petitioner, and the suit was dismissed.

7. Respondents No.1 to 3, who were defendants in Civil Suit No.125A of 2003, have filed a fresh suit for declaration of title, confirmation of possession and permanent injunction pertaining to survey numbers mentioned above, on the ground that the property detailed in Schedule-A is their ancestral property, acquired through partition, whereas the property mentioned in Schedule-B was purchased by the father of the plaintiff.
8. On perusal of the issues framed in Civil Suit No.125A of 2013 and those involved in the present case, it can safely be held that although the parties are the same and part of the property is the same but the



issues involved are entirely different. Therefore, the provisions of Section 11 of CPC would not attract.

9. Accordingly, this petition fails and is hereby **dismissed**. No cost(s).

Sd/-

(Rakesh Mohan Pandey)

Judge