



2026:CGHC:23646-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 424 of 2026**

Pushpkant S/o Banbihari Aged About 50 Years R/o Berekela Khurd,
Tahsil Pithaura, District Mahasamund (C.G.)

... **Appellant(s)**

versus

1 - Uddhav Khamhari S/o Sankirtan Aged About 52 Years R/o Village Sankara, Tahsil Pithaura, District Mahasamund (C.G.)

2 - Smt. Takshasheela W/o Late Ankur Khamhari Aged About 45 Years R/o Village Ganeshpur, Tahsil Pithaura, District Mahasamund (C.G.)

3 - Smt. Padmini W/o Shri Sheshdev Pradhan Aged About 31 Years R/o Village Jhagrendih, Tahsil Pithaura, District Mahasamund (C.G.)

4 - Dhaniram S/o Late Ankur Khamhari Aged About 27 Years R/o Village Ganeshpur, Tahsil Pithaura, District Mahasamund (C.G.)

5 - Smt. Kumudani W/o Pritikumar Aged About 24 Years R/o Village Ansula, Tahsil Pithaura, District Mahasamund (C.G.)

6 - Smt. Champilata W/o Nandkumar Aged About 24 Years R/o Village Charbhantha, Tahsil Pithaura, District Mahasamund (C.G.)

7 - Pavitra Bai W/o Anandram (Died) Through Lrs.-

7.1 - (I) Ghanshyam Pradhan S/o Anandram Aged About 48 Years R/o Village Bodardih, Tahsil Pithora, District- Mahasamund (C.G.)

7.2 - (li) Khitipati S/o Anandram Aged About 44 Years R/o Village Bodardih, Tahsil Pithora, District- Mahasamund (C.G.)



7.3 - (lii) Sudeshta D/o Anandram W/o Madanlal Aged About 44 Years R/o Baitari, Tahsil Kharaipali, District- Mahasamund (C.G.)

7.4 - (Iv) Smt. Supragya D/o Anandram W/o Shyamlal Aged About 42 Years R/o Village Badelohram, Tahsil Pithora, District Mahasamund (C.G.)

8 - Kunwarmati W/o Hemratan (Died) (Legal Heir Added As Per Hon'ble Court Order Dated 05-05-2025)

8.1 - (A) Meena Barik W/o Narendra Barik Aged About 50 Years R/o Village And Post- Kishanpur, Police Station- Pithaura, District Mahasamund (C.G.)

9 - Smt. Malti W/o Shivratan Aged About 30 Years R/o Village Barnaidadar, Tahsil Pithaura, District Mahasamund (C.G.)

10 - Smt. Janki Bai D/o Bihari (Died) Through Lrs.-

10.1 - (I) Vishvamitra Vishal S/o Satyanarayan Vishal Aged About 76 Years R/o Village Bodardih, Tahsil Pithora, District- Mahasamund (C.G.)

10.2 - (li) Raj Kumar Vishal S/o Vishvamitra Vishal Aged About 56 Years R/o Village Bodardih, Tahsil Pithora, District- Mahasamund (C.G.)

10.3 - (lii) Ashwani Vishal S/o Vishvamitra Vishal Aged About 52 Years R/o Village Chikhli, Post Sukhipali, P.S. And Tahsil Pithora, District- Mahasamund (C.G.)

10.4 - (Iv) Subhashani D/o Vishvamitra Vishal, W/o Praveen Pradhan Aged About 46 Years R/o Village Chikhli, Post Sukhipali, P.S. And Tahsil Pithora, District- Mahasamund (C.G.)

11 - Smt. Gurbari Bai D/o Bihari (Died) Through Lrs.-

11.1 - (I) Rajesh S/o Degreelal Sahu Aged About 50 Years R/o Village Nawapara, Athargudi, Tahsil Pithora, District- Mahasamund (C.G.)

11.2 - (li) Khemlal Sahu S/o Degreelal Sahu Aged About 45 Years R/o Village Nawapara, Athargudi, Tahsil Pithora, District- Mahasamund (C.G.)



11.3 - (lii) Smt. Vidhyawati D/o Degreelal Aged About 35 Years R/o Village Gajradih, P.S. Patewa, Tahsil And District Mahasamund (C.G.)

11.4 - (lv) Rajkumari D/o Degreelal Sahu Aged About 42 Years R/o Village Nawapara, Athargudi, Tahsil Pithora, District- Mahasamund (C.G.)

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant : Mr. Sourabh Sonwani, Advocate.
For Respondents No. 1 to 7 & 9 : Ms. Sareena Khan, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

15.06.2026

1. Heard Mr. Sourabh Sonwani, learned counsel for the appellant. Also heard Ms. Sareena Khan, learned counsel, appearing for respondents No. 1 to 7 & 9.

2. The present intra-Court appeal has been preferred by the appellant/writ petitioner against the order dated **23.02.2026** passed by the learned Single Judge in **WPC No. 3948 of 2022** (***Pushpkant vs. Uddhav Khamhari & Others***), whereby the writ petition filed by the appellant came to be dismissed.

3. Learned counsel for the appellant submits that the order dated 23.02.2026 passed by the learned Single Judge dismissing WPC



No.3948 of 2022 is unsustainable in law and on facts. He further submits that the Revenue Case No. 2019111208000016/A-17/2019-20 was initiated only for correction of revenue records in terms of the civil decree dated 09.02.1999 passed in Civil Appeal No. 58A/1998. While implementing the said decree, the Naib Tahsildar, Pithoura, by order dated 26.05.2022, travelled beyond the scope of the decree and illegally included Khasra No. 203 admeasuring 1.530 hectares in the Fard Batwara, although the said khasra number was never the subject matter of the original civil suit, appeal or decree. It is submitted that a Revenue Officer acting upon a civil decree performs only a ministerial function and has no authority to enlarge, modify or supplement the decree passed by a competent Civil Court.

4. It is further contended by the learned counsel, appearing for the appellant that the learned Single Judge erred in dismissing the writ petition solely on the ground of availability of an alternative remedy under Section 47 of the Code of Civil Procedure (for short, 'CPC'). It is submitted that the issue raised by the appellant is not merely one of execution but concerns a patent jurisdictional error committed by the Revenue Authority. It is settled law that the rule of alternative remedy is a rule of discretion and not of compulsion, and where an authority acts without jurisdiction or in excess of jurisdiction, the extraordinary writ jurisdiction of the High Court can be invoked. Reliance is placed upon ***Godrej Sara Lee Ltd. v. Excise and Taxation Officer, 2023 SCC OnLine SC 95 (Civil Appeal No. 5393 of 2010)***, wherein the Hon'ble Supreme Court held that maintainability and entertainability are distinct



concepts and that a writ petition raising a pure question of law or jurisdiction ought not to be rejected solely on the ground of availability of an alternative remedy.

5. Learned counsel for the appellant would submit that the impugned order overlooks the settled principle that even an Executing Court cannot go behind the decree and must execute the decree as it stands. Reliance is placed on ***Mehta Suraya v. United Investment Corporation, AIR 2002 Cal 108***. It is argued that if even an Executing Court lacks authority to alter the decree, a Revenue Officer acting upon the decree cannot be permitted to introduce an entirely new khasra number while effecting mutation or correction of records. The inclusion of Khasra No. 203 is therefore wholly without authority of law and void ab initio.

6. Learned counsel for the appellant also submits that the learned Single Judge committed a procedural irregularity in passing the final order while applications seeking substitution of the legal representatives of deceased respondents were still pending consideration. It is submitted that the status of the parties ought to have been determined before adjudication of the matter and disposal of the writ petition without first deciding the substitution applications has resulted in a procedural defect affecting the validity of the proceedings. He further stated that relegating the appellant to pursue remedies before the Executing Court and Revenue Authorities would result in unnecessary multiplicity of proceedings and prolonged litigation in a matter arising from a decree



passed as far back as the year 1999. The controversy is purely legal in nature and concerns the legality of an order passed by a Revenue Authority beyond the scope of the civil decree. Therefore, the writ petition deserved consideration on merits rather than dismissal on the ground of alternative remedy.

7. In view of the aforesaid submissions, it is respectfully prayed that the impugned order dated 23.02.2026 be set aside and the matter be considered on merits, or such other orders be passed as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

8. *Per contra*, learned counsel appearing for respondents No. 1 to 7 & 9 submits that the order passed by the learned Single Judge does not suffer from any illegality, perversity or jurisdictional error warranting interference in the present writ appeal. It is submitted that the grievance raised by the appellant pertains to the execution and implementation of a civil decree and, therefore, the appropriate remedy is available under Section 47 of the CPC before the competent Executing Court. It is further submitted that the Revenue Authority acted pursuant to proceedings arising out of the decree and any dispute regarding inclusion or exclusion of any khasra number in the execution process can appropriately be adjudicated by the Executing Court. Therefore, the learned Single Judge has rightly declined to exercise writ jurisdiction and has relegated the Appellant to the statutory remedy available in law.

9. We have heard learned counsel for the parties at length and



perused the material available on record.

10. The principal grievance of the appellant is that Khasra No. 203 admeasuring 1.530 hectares has been included in the Fard Batwara despite not forming part of the original decree. The learned Single Judge, after considering the nature of the dispute, came to the conclusion that the controversy essentially relates to execution and implementation of the decree.

11. A plain reading of Section 47 of the CPC makes it abundantly clear that all questions arising between the parties to the suit and relating to the execution, discharge or satisfaction of the decree are required to be determined by the Executing Court and not in separate proceedings. The provision has been enacted to ensure that all disputes concerning execution are adjudicated by the court competent to execute the decree.

12. In the present case, the challenge raised by the appellant directly concerns the manner in which the decree has been implemented and whether a particular khasra number could have been included while giving effect to the decree. Such a dispute squarely falls within the ambit of Section 47 of the CPC and is required to be examined by the Executing Court on the basis of the decree, execution proceedings and relevant revenue records.

13. We also find that the learned Single Judge has not foreclosed the rights of the appellant. Rather, liberty has specifically been granted to raise all available objections before the Executing Court and to avail



such remedies as may be available under the provisions of the Chhattisgarh Land Revenue Code, 1959. Therefore, no prejudice has been caused to the Appellant by relegating him to the appropriate statutory forum.

14. The contention regarding inclusion of Khasra No. 203 involves examination of factual aspects connected with execution of the decree and cannot be adjudicated in writ jurisdiction in the first instance when a specific and efficacious remedy is available under Section 47 of the CPC and the Chhattisgarh Land Revenue Code, 1959. The learned Single Judge has, therefore, rightly declined to entertain the writ petition.

15. We are of the considered opinion that the order passed by the learned Single Judge is well-reasoned and in consonance with the statutory scheme contained in Section 47 of the CPC and the Chhattisgarh Land Revenue Code, 1959. No ground is made out for interference in appellate jurisdiction.

16. Consequently, the writ appeal being devoid of merit is **dismissed**.
No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice