



2026:CGHC:9210

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3948 of 2022

Pushpkant S/o Banbihari Aged About 50 Years R/o Berekela Khurd, Tahsil Pithaura, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

... Petitioner.

Versus

1 - Uddhav Khamhari S/o Sankirtan Aged About 52 Years R/o Village Sankara, Tahsil Pithaura, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

2 - Smt. Takshasheela Wd/o Late Ankur Khamhari Aged About 45 Years R/o Village Ganeshpur, Tahsil Pithaura, District Mahasamund Chhattisgarh.

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

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

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

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

7 - Pavitra Bai W/o Anandram Aged About 65 Years R/o Village Boirdih, Tahsil

Digitally signed by
AJAY KUMAR
DN: cn=AJAY KUMAR
DWIVEDI, ou=HIGH
COURT, o=HIGH
COURT OF
CHHATTISGARH,
st=Chhattisgarh,
c=IN
Date: 2026.02.24
10:23:32 +0530

Pithaura, District Mahasamund Chhattisgarh.

8 - Kunwarmati W/o Hemratan (Died) (Legal Heir Added As Per Honble 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 Chhattisgarh.

10 - Smt. Janki Bai D/o Bihari Aged About 62 Years R/o Chikhali, , Tahsil Pithaura, District Mahasamund Chhattisgarh.

11 - Smt. Gurbari Bai D/o Bihari Aged About 60 Years R/o Athargudi, Tahsil Pithaura, District Mahasamund Chhattisgarh.

... Respondents.

(cause title downloaded from CIS Periphery)

For Petitioner	:	Mr. Amit Kumar, Advocate.
For Res No.1	:	Ms. Sareen Khan, Advocate.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

23/02/2026

1. This Writ Petition has been filed by the petitioner seeking following reliefs:-

"10.1 That, this Hon'ble Court may kindly be pleased to set-aside/quash the impugned order dated 26.05.2022 (Annexure-P/1).
10.2 That, any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the petition may be given."
2. Learned counsel for the petitioner submits that in compliance of judgment and decree dated 09.02.1999 (Annexure-P/3) passed by the Second Upper

District Judge, Mahasamund in Civil Appeal No.58A/1998, an execution proceeding is pending before the Civil Judge, Class-II, Pithoura, District Mahasamund. He further submits that in compliance of judgment and decree and on the basis of application filed by the respondent No.2 (Smt. Takshshila), the Naib Tahsildar, Pithoura 02, District Mahasamund has registered the Revenue Case No.2019111208000016/A-17/2019-20, wherein, the Fard Batwara has been called and upon receipt of same, order for correction of record as per Fard Batwara has been passed by the Naib Tahsildar on 26.05.2022 (Annexure-P/1). He also submits that in the said Fard Batwara, Khasra No.203 area 1.530 hectares was added, but said Khasra number is not part of subject decree, therefore, the impugned order is arbitrary and without jurisdiction. In view of such submission, counsel prays to admit this petition.

3. On the other hand, learned counsel for respondent No.1 submits that if petitioner (judgment debtor) has any objection/grievance with regard to execution of decree, he may raise his grievance before the concerned Executing Court under Section 47 of the Code of Civil Procedure, 1908 (in short the "**CPC**"). Therefore, the present writ petition is not maintainable at this stage and deserves to be dismissed.
4. Heard learned counsel for the parties and perused the material available on record.
5. The provision dealing with the instant issue is provided in Section 47 of the CPC which reads thus:-

"Section 47. Questions to be determined by the Court executing decree.

(1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

* * * * *

(3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.

[*Explanation 1.*-- For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed are parties to the suit.

Explanation II.-- (a) For the purposes of this section, a purchaser of property at a sale in execution of a decree shall be deemed to be a party to the suit in which the decree is passed; and

(b) all questions relating to the delivery of possession of such property to such purchaser or his representative shall be deemed to be questions relating to the execution, discharge or satisfaction of the decree within the meaning of this section.]"

6. A bare perusal of aforesaid provision makes it clear that all the question raised by the party pertaining to execution of decree ought to have been raised before the concerned Executing Court.
7. The main grievance of the petitioner in present petition is that the land bearing Khasra No.203 Area 1.530 Hectares has been included in Fard Batwara, whereas such Khasra number was not the part of subject decree, however, the petitioner has not raised such issue before the Executing Court in view of specific provision contained in Section 47 of the CPC.
8. Furthermore, from perusal of record it appears that the execution case for decree of partition is pending before the Civil Judge, Class-II Pithoura, Mahasamund, however, when a query has been put to counsel for the

petitioner with regard to said case, he could not apprise the Court whether said execution proceeding is still pending or not.

9. Considering the issue involved in the instant petition as has been observed above, if the petitioner (judgment debtor) has any grievance in respect of execution decree, then he may raise such issue under Section 47 of the CPC and he may also take recourse to law under the Chhattisgarh Land Revenue Code 1959. Hence, this Court is not inclined to entertain this petition at this juncture. The petitioner is at liberty to raise his grievance before the concerned Executing Court in accordance with law.
10. Accordingly, the writ petition is dismissed with the aforesaid observation.
11. Pending application(s), if any, stands disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Ajay