



2026:CGHC:4263

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CR No. 109 of 2024**

1 - Ajay Kumar Sharma S/o Bhikhamchandra Sharma Aged About 62 Years R/o Sadar Ward, Bhatapara, Taluka Bhatapara, District Balodabazar-Bhatapara (C.G.),...(Defendant No. 1)

... Applicant**versus**

1 - Kusumlata Sharma W/o Bhikhamchandra Sharma Aged About 83 Years R/o Sadar Ward, Bhatapara, Taluka - Bhatapara, District Balodabazar-Bhatapara (C.G.),...(Plaintiff)

2 - Rajkumar Sharma S/o Bhikhamchandra Sharma Aged About 67 Years Sadar Ward, Bhatapara, Taluka - Bhatapara, District Baloda Bazar-Bhatapara (C.G.),...(Plaintiff)

3 - Madhulata Sharma W/o Naynanand Sharma Aged About 65 Years R/o B-174, Rajendra Marg, Bapu Nagar, Jaypur-4 (Rajasthan),... (Defendant)

4 - Nilima Sharma W/o Mohan Kumar Sharma Aged About 63 Years R/o Flat No. 6-305, Shankar Lalat Nagar, Wakad, Pune (Maharashtra),... (Defendant)

5 - Yogeshvar Verma S/o Chandrika Verma Aged About 39 Years R/o Village - Chandi, P.O. Semhradih, Taluka - Simga, District Balodabazar-Bhatapara (C.G.),... (Defendant)

6 - Vedprakash Verma S/o Chandrika Verma Aged About 36 Years R/o Village Chandi, P.O. Semhradih, Taluka - Simga, District Balodabazar-Bhatapara (C.G.),... (Defendant)

7 - Tikeshvar S/o Dulesh Sahu Aged About 22 Years R/o Village Dhaneli, Taluka - Bhatapara, District Balodabazar-Bhatapara (C.G.),... (Defendant)

8 - Dikeshwar S/o Dulesh Sahu Aged About 19 Years R/o Village Dhaneli, Taluka - Bhatapara, District Balodabazar-Bhatapara (C.G.),... (Defendant)



9 - Limesh Das S/o Raju Das Aged About 21 Years R/o Village Dhaneli, Taluka - Bhatapara, District Balodabazar-Bhatapara (C.G.),... (Defendant)

10 - Nitesh Das S/o Raju Das Aged About 18 Years R/o Village Dhaneli, Taluka - Bhatapara, District Balodabazar-Bhatapara (C.G.),... (Defendant)

11 - Vinod Das S/o Padum Das Manikpuri Aged About 51 Years R/o Village Dhaneli, Taluka - Bhatapara, District Balodabazar-Bhatapara (C.G.),...(Defendant)

12 - State Of Chhattisgarh Through Collector, Balodabazar, District Balodabazar-Bhatapara (C.G.)

... Respondent(s)

(Cause-title is taken from Case Information System)

For Applicant : Mr. Sourabh Sahu, Advocate

For State : Mr. Hariom Rai, Panel Lawyer

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

23/01/2026

1. This Civil Revision has been filed under Section 115 of the Code Of Civil Procedure, 1908 being aggrieved by the order dated 05.03.2024 passed by the Civil Judge, Class-I, Bhatapara, District Balodabazar-Bhatapara (C.G.) in Civil Suit No. 37-A/2022, whereby the application filed by the applicants under Order VII Rule 11 of the Code of Civil Procedure, 1908 has been dismissed.
2. Facts of the case, as projected, are that the plaintiffs instituted a civil suit for declaration of title and permanent injunction before the Court of Civil Judge, Bhatapara, against the defendants in respect of lands bearing Khasra Nos. 67, 108, 123, 127, 376, 458, 509, 566 and 568, admeasuring 5.314, 0.024, 0.109, 0.093,



0.028, 0.425, 0.938, 0.162 and 0.251 hectares respectively, comprising 9 khasras with a total area of 7.344 hectares, situated at Village Shikari, Kesli, P.H. No. 32, Tahsil Simga, District Baloda Bazar-Bhatapara (C.G.), hereinafter referred to as the "Suit Land". It was the case of the plaintiffs that the Suit Land originally belonged to Late Budhhalal Sharma, who was the father-in-law of plaintiff No.1 and grandfather of plaintiff No.2 as well as defendant Nos.1 to 3. It was further pleaded that upon the death of Budhhalal Sharma, the Suit Land devolved upon Bhikhamchand Sharma, husband of plaintiff No.1 and father of plaintiff No.2 and defendant Nos.1 to 3. According to the plaintiffs, after the death of Bhikhamchand Sharma, the Suit Land ought to have been distributed amongst all his legal heirs; however, defendant No.1, in collusion with the revenue authorities, allegedly got his name mutated in the revenue records to the exclusion of the other co-sharers. It was further alleged that after such mutation, defendant No.1 began alienating portions of the Suit Land, which according to the plaintiffs constituted joint family property, compelling the plaintiffs to file the present suit. A copy of the plaint has been filed herewith as Annexure A/2. It is pertinent to mention that prior to the institution of the present civil suit, the plaintiffs had already filed Civil Suit No. 12-A/2021 before the Court of Civil Judge, Class-II, Simga, District Baloda Bazar-Bhatapara (C.G.), against the same set of defendants in respect of lands bearing Khasra Nos. 55/1, 56/1, 121, 143, 167, 168, 169, 173, 174, 175, 456 and



464, admeasuring 1.683, 0.142, 0.174, 0.433, 0.214, 0.210, 0.364, 0.243, 0.636 and 1.339 hectares respectively, comprising 10 khasras with a total area of 5.438 hectares, situated at Village Shikari Kesli, P.H. No. 26, Tahsil Simga, District Baloda Bazar-Bhatapara (C.G.). Since the plaintiffs had earlier instituted a civil suit relating to lands situated in the same village and arising out of the same cause of action, and thereafter filed the present suit for the remaining lands without seeking leave of the Court, the present suit was barred under Order II Rule 2 of the Code of Civil Procedure, 1908. Accordingly, defendant No.1 filed an application under Order VII Rule 11 CPC seeking rejection of the plaint. Upon receipt of the application under Order VII Rule 11 CPC, the plaintiffs filed their reply denying the averments made therein and contended that the suit was maintainable. The learned Trial Court, after hearing the parties, vide impugned order dated 05.03.2024, dismissed the application filed by defendant No.1 under Order VII Rule 11 CPC. The said order is arbitrary, contrary to settled principles of law, and unsustainable in the facts and circumstances of the present case. Hence, the present civil revision has been preferred.

3. Learned counsel for the applicant submits that the impugned order dated 05.03.2024 passed by the learned Civil Judge, Class-I, Bhatapara is arbitrary, illegal and contrary to the settled principles of law, and has been passed without proper appreciation of the facts and circumstances of the present case.



It is further submitted that the learned Trial Court failed to consider that the plaintiffs had deliberately omitted part of the suit property while instituting the earlier civil suit and, with a view to fill up the lacunae and improve their case, subsequently filed the present suit, which is impermissible in law. Learned counsel submits that the present suit itself was not maintainable for want of territorial jurisdiction, inasmuch as the entire suit property is situated within Tahsil Simga, and therefore, the Civil Court at Bhatapara lacked jurisdiction to entertain and try the suit. It is also contended that the learned Trial Court failed to appreciate that the second suit filed by the plaintiffs was clearly barred under Order II Rule 2 of the Code of Civil Procedure, 1908, as the cause of action in both the suits was identical and the plaintiffs, without seeking leave of the Court, instituted the subsequent suit for the remaining properties. Learned counsel further submits that the application under Order VII Rule 11 CPC filed by defendant No.1 was dismissed by the learned Trial Court in a mechanical manner, without due application of mind and without recording cogent reasons, thereby rendering the impugned order unsustainable in law.

4. Learned State counsel vehemently opposes the submissions advanced on behalf of the applicant and submits that the impugned order passed by the learned Trial Court is legal, justified and in accordance with law. It is submitted that the objections raised by the applicant relating to bar under Order II



Rule 2 CPC, territorial jurisdiction, and alleged suppression of facts involve mixed questions of law and fact, which cannot be adjudicated at the stage of an application under Order VII Rule 11 CPC. Learned State counsel further submits that while considering an application under Order VII Rule 11 CPC, the Court is required to confine itself strictly to the averments made in the plaint and no defence or extraneous material can be looked into. On a plain reading of the plaint, no ground for rejection of the plaint is made out. It is contended that the learned Trial Court has rightly exercised its jurisdiction and dismissed the application under Order VII Rule 11 CPC after due consideration, and no jurisdictional error or perversity warranting interference under Section 115 CPC is made out. Accordingly, learned State counsel prays for dismissal of the present civil revision.

5. I have heard learned counsel for the applicant as well as learned State counsel at length and have perused the impugned order along with the material available on record.
6. On perusal of the records, it clearly emerges that the primary and substantial objection raised by the applicants/defendants before the Trial Court was that the present suit is barred under Order II Rule 2 of the Code of Civil Procedure, 1908, on the ground that the plaintiffs had earlier instituted another civil suit relating to certain properties situated in the same village and arising out of the same alleged cause of action. The learned Trial Court, while considering the application under Order VII Rule 11 CPC,



confined itself to the averments made in the plaint and came to the conclusion that the plea raised by the defendants regarding the bar under Order II Rule 2 CPC could not be adjudicated at the threshold, as the same involves mixed questions of law and fact, requiring adjudication after framing of issues and leading of evidence by the parties.

7. It is well settled that while considering an application under Order VII Rule 11 CPC, the Court is required to examine only the statements made in the plaint and not the defence taken by the defendants. The correctness or otherwise of the defence, including pleas of bar under Order II Rule 2 CPC, cannot ordinarily be decided at a nascent stage unless such bar is apparent on the face of the plaint itself.
8. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in **Vinod Infra Developers Ltd. vs. Mahaveer Lunia & Ors.**, reported in **2025 SCC OnLine SC 1208**, wherein it has been categorically held that objections ordinarily cannot be decided at the initial stage when the defence is yet to be adjudicated and that such objections are required to be examined after framing of issues and upon appreciation of evidence. It was held as under :

"8. The position of law is that rejection of a plaint under Order VII Rule 11 CPC is permissible only when the plaint, on its face and without considering the defence, fails to disclose a cause of action, is barred by any law, is undervalued, or is insufficiently



stamped. At this preliminary stage, the court is required to confine its examination strictly to the averments made in the plaint and not venture into the merits or veracity of the claims. If any triable issues arise from the pleadings, the suit cannot be summarily rejected.....”

9. Applying the law laid down by the Hon'ble Supreme Court to the facts of the present case, this Court finds that the learned Trial Court has rightly appreciated the legal position and has correctly held that the issue as to whether the present suit is barred under Order II Rule 2 CPC cannot be decided at the stage of consideration of an application under Order VII Rule 11 CPC. The contention raised by learned counsel for the applicant regarding lack of territorial jurisdiction and alleged suppression of facts also cannot be adjudicated at this preliminary stage, as the same would again require examination of factual aspects, which is beyond the limited scope of Order VII Rule 11 CPC.
10. This Court does not find that the impugned order suffers from any jurisdictional error, material irregularity or perversity, so as to warrant interference in exercise of revisional jurisdiction under Section 115 CPC. The learned Trial Court has exercised its jurisdiction in accordance with law and has passed a reasoned and well-considered order.
11. In view of the aforesaid discussion and considering the law laid down by the Hon'ble Supreme Court, this Court is of the



considered opinion that no case for interference is made out. The civil revision is devoid of merits.

12. Accordingly, the Civil Revision is **dismissed**.

No order as to costs.

Sd/-

(Amitendra Kishore Prasad)

JUDGE

Shayna