



2026:CGHC:39586



CGHC010340852026



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WP227 No. 1133 of 2026**

1 - Bhanu S/o Late Gandra Aged About 28 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Defendant No.4)

2 - Hanu Pratap S/o Late Gandra Aged About 24 Years R/o Village Painku Tahsil And District- Jashpur (C.G.)

... Petitioner(s)**versus**

1 - Kumari Amrila Bai D/o Late Fakir Ram Aged About 40 Years (Plaintiff No.1) R/o Village Painku Tahsil And District- Jashpur (C.G.)

2 - Vijay Ram S/o Late Fakir Ram Aged About 37 Years (Plaintiff No.2) R/o Village Painku Tahsil And District- Jashpur (C.G.)

3 - Kumari Ranjita Bai D/o Late Fakir Ram Aged About 33 Years (Plaintiff No 3) R/o Village Painku Tahsil And District- Jashpur (C.G.)

4 - Kumari Munni Bai D/o Late Fakir Ram Aged About 33 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Plaintiff No.4)

5 - Nileshwar S/o Late Fakir Ram Aged About 22 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Plaintiff No.5)

6 - Smt Devi W/o Late Fakir Ram Aged About 60 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Plaintiff No .6)

7 - Thupa Ram S/o Late Bulku Aged About 57 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Plaintiff No.7)

8 - Fulmohan S/o Late Jogi Aged About 40 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Defendant No.1)

9 - Bibilal S/o Late Jogi Aged About 34 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Defendant No.2)

10 - Vinod S/o Late Jogi Aged About 30 Years R/o Village Painku Tahsil And District- Jashpur (C.G.) (Defendant No.3)



11 - State of Chhattisgarh Through Collector Jashpur District- Jashpur Chhattisgarh.

... Respondent(s)

For Petitioner(s)	: Ms. Aditi Joshi, Advocate
For Respondent No.11/State	: Ms. Isha Jajodiya, Panel Lawyer

(Hon'ble Shri Justice Ravindra Kumar Agrawal, J.)

Order on Board

09/09/2026

1. Heard.
2. Present is a writ petition under Article 227 of the Constitution of India filed by the petitioners, who are Defendant Nos. 4 and 5 in Civil Suit No. 21A/2024, against the impugned order dated 15.05.2026 passed by the learned Civil Judge (Junior Division), Jashpur, District Jashpur, C.G., in Civil Suit No. 21A/2024, whereby the application filed by the petitioners under Order XIV Rule 5 of the Code of Civil Procedure, 1908, seeking framing of necessary additional issues, has been rejected.
3. Learned counsel for the petitioners would submit that the petitioners are Defendant Nos. 4 and 5 in the suit pending before the learned trial Court, wherein the present respondents No. 1 to 7/plaintiffs have prosecuted a suit for declaration of title and permanent injunction over the suit land admeasuring 7.190 hectares, comprising 14 different Khasra numbers, situated at Village Painku, Tehsil and District Jashpur, C.G. The details of the suit property have been shown in Schedule-A annexed with the plaint. She would further submit that the plaintiffs have pleaded in their plaint that there was no partition in respect of the suit property



and that they are in possession over the suit land after obtaining the suit property by virtue of their inheritance. Whereas, the petitioners/Defendant Nos. 4 and 5 have taken a specific plea in their written statement that a partition had already taken place between the ancestors of the parties and that the suit properties had been partitioned amongst them. She would further submit that the details of the properties which fell to the respective shares of the ancestors of the parties in the said mutual partition have also been specifically mentioned in the written statement. She would therefore submit that the proposed Issue No. 2, as sought to be framed by the petitioners in their application dated 02.09.2025 (Annexure A-1), is relevant and necessary for effective adjudication of the suit. Without framing the proper issue as proposed by the petitioners, effective adjudication would not be possible, as the parties may be deprived of an opportunity to lead appropriate evidence on the question of partition.

4. She would further submit that, so far as proposed Issue No. 1 is concerned, the learned trial Court has already observed that the said issue is inherent in Issue No. 1, which has already been framed by the learned trial Court on 12.08.2025. Therefore, she is not emphasizing the proposed Issue No. 1, however, she is pressing for the proposed Issue No. 2 to be framed for its adjudication.
5. I have heard learned counsel for the petitioners and perused the documents annexed with the petition.



6. Order XIV Rule 5 of the Code of Civil Procedure, 1908, provides the power to amend and strike out the issues, which reads as under:

“5. Power to amend and strike out issues. -

(1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.”

7. Order XIV Rule 3 of the Code of Civil Procedure, 1908, provides the materials from which the issues may be framed, which reads as under:

“3. Materials from which issues may be framed.-The Court may frame the issues from all or any of the following materials:-

(a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties;

(b) allegations made in the pleadings or in answers to interrogatories delivered in the suit;

(c) the contents of documents produced by either party.”

8. In the present case, the plaintiffs have pleaded in paragraph 4 of their plaint, which is necessary to note here, which reads as under:



“(4) यह कि उपरोक्त अनुसूची "अ" की भूमि का पूर्व में विधिवत् कोई बंटवारा नहीं हुआ है तथा सभी खातेदार अपने सुविधा अनुसार अनुसूची "अ" की भूमि पर कास्त कब्जा करते रहे हैं। उपरोक्त अनुसूची "अ" की भूमि में से कुछ भूमि उत्तम किस्म की है तथा कुछ भूमि टांड वगैरह है तथा टांड की भूमि पर अधिक फसल का उपज नहीं किया जा सकता है।”

9. The Petitioners/Defendant Nos. 4 and 5, in their written statement, have specifically denied the fact that there was no partition, rather, they have specifically pleaded in paragraph 4 of their written statement that there was a partition between their ancestors. It is also necessary to note here paragraph 4 of the written statement filed by Petitioners/Defendant Nos. 4 and 5, which reads as under:

“4. यह कि वाद पत्र की कंडिका क्रं0 04 व 05 पूर्णतः असत्य होने से अस्वीकार है कथन है कि पूर्वजों की स्वअर्जित भूमि होने के कारण पूर्वजों ने अपने जीवनकाल में ही भूमि का आपसी बटवारा कर लिया था ताकि उनके वारिशगण के मध्य कोई विवाद उत्पन्न न हो। इस कारण भूमि का आपसी बटवारा कृपाल वल्द बोधन तथा बुलकु वल्द रामधन के मध्य हो चुका था। कृपाल वल्द बोधन को कुल खसरा नंबर योग 06 कुल रकबा 3.589 हे. जिसका विवरण कंडिका 03 में दिया जा चुका है। तथा बुलकु पिता रामधन को कुल खसरा नंबर योग 08 कुल रकबा 3.601 हे. भूमि प्राप्त हुआ था जिसका विवरण उपरोक्त कंडिका 03 में दिया जा चुका है उसी के अनुसार बुलकु के वारिश अपने हिस्से की भूमि

खसरा	रकबा
17	0.648 हे.
178/1	0.834 हे.
324	0.231 हे.



399	0.081 हे.
403	0.721 हे.
422	0.633 हे.
633	0.101 हे.
638	0.352 हे.
योग- 08	3.601 हे.

को तथा कृपाल के वारिशान अपने हिस्से की भूमि

खसरा	रकबा
192	0.861 हे.
311	0.227 हे.
617	0.308 हे.
627	0.057 हे.
628	0.963 हे.
643	0.173 हे.
योग- 06	3.587 हे.

को शांति पूर्वक कमाते खाते रहे, तथा भूमि में कास्त-कब्जा कर अलग-अलग अपने-अपने हिस्से की भूमि का लगान पटाते थे। कृपाल के वारिशान पूर्वजों से प्राप्त भूमि को हमेशा कास्त कब्जा करते रहे। हर साल खेत को जोतना और फसल होन पर निंदाई करते थे। जबकि बुलकु के वारिशान पूर्वजों से प्राप्त भूमि को बाहर रहने के कारण अपने कभी भी खेती नहीं करते थे। खेती नहीं करने से और जोत कोड़ नहीं करने से तथा फसल नहीं उगाने से भूमि बजरं तो हो गई। क्योंकि फकीर मध्यप्रदेश स्टेट बस में ड्रायवरी का कार्य करता था। काफी लम्बे समय तक अपने परिवार को लेकर ग्राम पैकु से बाहर रहा। तुपा डोड़काचौरा जशपुर में रहता है अपने परिवार के साथ पैकु में नहीं रहता है। बुलकु के वंशज में से मात्र जोगी ही ग्राम पैकु में रहता हैं, और अकेला पड़ जाने के कारण पूर्वजों से प्राप्त भूमि



खसरा	रकबा
17	0.648 हे.
178/1	0.834 हे.
324	0.231 हे.
399	0.081 हे.
403	0.721 हे.
422	0.633 हे.
633	0.101 हे.
638	0.352 हे.
योग- 08	3.601 हे.

को ठीक ढंग से देख भाल नहीं कर पाता है। कई साल तक उपरोक्त पूर्वजों से आपसी बटवारा में प्राप्त भूमि में खेती नहीं होने से तथा जोत कोड़ नहीं होने से भूमि पड़ती रह जाती है।”

10. Thus, the question as to whether any partition had taken place between the ancestors of the parties is a disputed question of fact and is relevant for effective adjudication of the suit. Therefore, a specific issue with regard to the said partition is necessary so that the parties may lead their evidence and the controversy between them may be effectively adjudicated. Therefore, the proposed Issue No. 2, as has been proposed by the petitioners in their application dated 02.09.2025 (Annexure A-1), appears to be relevant and necessary for effective adjudication of the suit and deserves to be framed. However, so far as proposed Issue No. 1 is concerned, the learned trial Court has already observed that the same is inherent in Issue No. 1 already framed by it.

11. Therefore, the impugned order dated 15.05.2026, with respect to the rejection of the application to the extent of proposed Issue No.



2, is set aside.

12. The learned trial Court is directed to frame proposed Issue No. 2, i.e., as mentioned in the application dated 02.09.2025 (Annexure A-1), in paragraph 2(ii), which is as under:

“(ii) क्या अनुसूचि अ उल्लेखित 14 प्लॉट कुल रकबा 7.190 हे. का पूर्व में आपसी पारिवारीक बटवारा हो चुका था। और उक्त आपसी बटवारा अनुसार प्रतिवादी क्र. 04 एवं 05 कास्त-काबिज हैं ?”

13. The learned trial Court shall thereafter proceed with the suit in accordance with law.
14. The remaining part of the impugned order dated 15.05.2026 shall remain intact.
15. With the aforesaid observation and direction, the writ petition is **partly allowed** to the extent indicated hereinabove.

Sd/-

(Ravindra Kumar Agrawal)

JUDGE