



2026:CGHC:9407

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 917 of 2025

1 - Fuleshwari Devi W/o. Lakshman Ram Sahu, Aged About 69 Years R/o. Lakshmipur, Near Bilaspur Chowk, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.)

... Petitioner

versus

1 - Awadha Das S/o Late. Prem Sai Das, Aged About 56 Years R/o. Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

2 - Shiladas D/o Late. Prem Sai, Aged About 55 Years R/o Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

3 - Ramesh Das S/o Late Prem Sai, Aged About 54 Years R/o Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

4 - Mamta Das D/o. Shivcharan Das, Aged About 48 Years R/o. Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

5 - Lilavati Das W/o. Ramesh Das, Aged About 53 Years R/o. Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

6 - Deepak Das S/o Shivcharan Das (Since Died)

6.1 - Aarti Das Wd/o. Late Deepak Das, Aged About 30 Years R/o. Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

6.2 - Suvesh Das S/o Late. Deepak Das, Aged About 15 Years Through Natural Guardian Mother Namely Aarti Das, Wd/o. Late Deepak Das, R/o. Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

6.3 - Ku. Yashvani Das D/o. Late Deepak Das, Aged About 2 Years Through Natural Guardian Mother Namely Aarti Das, Wd/o. Late Deepak Das, R/o. Bhathupara, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

7 - Jaishankar Sahu @ Babu Sahu S/o. Late. Lakshman Ram Sahu, Aged About 38 Years R/o. Lakshmipur, Near Bilaspur Chowk, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

8 - Ram Kishun Sahu S/o. Ramswarath Sahu, Aged About 50 Years R/o. Lakshmipur, Near Bilaspur Chowk, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

9 - Gopi Sahu S/o. Ram Swarath Sahu, Aged About 48 Years R/o. Lakshmipur, Near Bilaspur Chowk, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

10 - Ridhi Sahu D/o. Ram Swarath Sahu, Aged About 45 Years R/o. Lakshmipur, Near Bilaspur Chowk, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

11 - Siddhi Sahu D/o. Ram Swarath Sahu, Aged About 42 Years R/o. Lakshmipur, Near Bilaspur Chowk, Police Station Manipur, Tahsil Ambikapur, District Surguja (C.G.).

12 - Anil Singh Bhatthar S/o. Late. Virendra Pratap Singh, Aged About 60 Years R/o Bishunpur, Police Station Gandhi Nagar, District Surguja (C.G.).

13 - State Of Chhattisgarh Through - Collector, Ambikapur, District - Surguja (C.G.).

... Respondents

For Petitioner(s)	: Mr. Anurag Singh, Advocate
For Res. No. 1	: Mr. Kamlesh Patel, Advocate
For Res. No. 2	: Mr. V. K. Pandey, Advocate
For Res. Nos. 8 & 9	: Mr. Divyanand Patel, Advocate
For Res. No. 12	: Ms. Seema Verma, Advocate
For Res. No. 13	: Mr. Vivek Siddharth Ojha, Panel Lawyer

Hon'ble Shri Justice Sachin Singh Rajput

Order On Board

23/02/2026

1. This is a writ petition filed under Article 227 of the Constitution of India assailing the legality, validity, correctness and judicial propriety of the order dated 31.07.2025 passed in Misc. Civil Appeal No. 26/2024 by the 6th District Judge, Ambikapur District-Surguja (C.G.). By the impugned order, the appeal filed by the petitioner under Order 43 Rule 1 of the Code of Civil Procedure,

1908 (in short "CPC") was dismissed and order dated 15.10.2024 passed by the 1st Civil Judge, Junior Division, Ambikapur District -Surguja (C.G.) in Civil Suit No. 370-A/2023 by which the application of the petitioner filed under Order 39 Rule 1 & 2 of CPC was dismissed, has been affirmed.

2. Learned counsel for the petitioner submits that a Civil suit bearing No. 117-A of 2014 was filed by Smt. Awadha Das and Smt. Sheela Das, respondents No. 1 & 2, respectively against the remaining respondents seeking declaration of title, permanent injunction, possession and partition in respect of suit property, which is properly described in schedule 'A' and schedule 'B' appended with the said plaint. The petitioner was arrayed as defendant No. 6 in that Civil Suit. According to the pleadings in the first plaint, the properties were belonging to one Premdas, who had five children. The plaintiffs/ respondents Nos. 1 & 2 in the earlier suit of the daughters, who have sought the above stated relief in respect of the suit property. It is the case of the petitioner that out of the properties mentioned in schedule "A", certain properties were purchased by the petitioner herein by registered sale deed in the year 2007 from Ramesh, who one of the children of deceased Premdas. He further submits that apart from the properties mentioned in the schedule appended with the first plaint, there are some other properties of deceased Premdas, which was not the subject matter of the first suit. The First Civil Judge, Class-I, Ambikapur, District Sarguja (C.G.) vide its judgment & dated 11.12.20202 allowed the suit filed respondents No.1 & 2/plaintiffs, against which a appeal was preferred, which was also dismissed. As the properties was partitioned by virtue of the 1st decree, to the 1/4th shares amongst the children of the deceased Premdas, if the properties which the Premdas was holding, in addition to the property which was subject matter of the first civil Suit, the partition would have been in different context and properties

purchased by the petitioner from Ramesh could have fell in his share, thus, the petitioner could have protected his sale deed. By the 1st judgment and decree, the learned Civil Judge has held that the sale deed dated executed in favour of the petitioner dated 28.06.2006 and 02.02.2007 to the extent of the petitioner was null and void. Seeking for relief of declaring the judgment & decree of the learned Civil Judge as well as by the appellate Court, as null and void, the subsequent suit was filed by the petitioner. The petitioner also filed an application under order 39 Rule 1 & 2 of CPC inter-alia pleading that the Revenue Authorities may be restrained from mutating the names in terms of the decree passed by the Civil Judge and further *status quo* with respect to the properties purchased by the petitioner through registered sale deed may be maintained. The learned Civil Judge dismissed the said application, which was affirmed by the learned Appellate court by the impugned order. He further submits that the plaintiffs in the earlier suit have not disclosed the other properties held by deceased Premdas and thus only sought partition of the properties, out of which, the petitioner has also purchased certain lands. Therefore, till disposal of the suit, the application filed under Order 39 Rule 1 & 2 may be allowed and the impugned order may be set aside.

3. Opposing the submission, the learned counsel for the respondents submit that the petitioner has not disclosed in the subsequent plaint the details of the properties purchased by him. Apart from this, the findings recorded by both the Courts below appear to be based on proper appreciation of the facts and circumstances of the case, which do not require any interference by this Court.

4. I have heard learned counsel for the parties and perused the material available on record.

5. From the documents appended with this writ petition it appears that initially the Civil Suit was filed by two of the respondents herein. They sought declaration of title, partition, possession and declaring the sale deed, which was executed in favour of the petitioner, as null and void. The details of the properties were also included in the schedule appended with the plaint. It appears that the civil suit was allowed and judgment and decree to the relief as claimed was granted, which was challenged unsuccessfully before the appellate court. It appears that thereafter, the petitioner filed a suit for declaring those judgment and decree as null and void from the inception.

6. From perusal of the subsequent plaint, it does not appear that any detail of the properties which was purchased by the petitioner has been mentioned. The fact remains that in the earlier civil Suit, the petitioner/plaintiff was also a party and contested the claim unsuccessfully. The learned Civil Judge while deciding the application under Order 39 Rule 1 & 2 of CPC specifically dealt that no *prima facie* case of balance of convenience and irreparable loss would be cause to the petitioner herein. That finding of fact also been affirmed by the learned Appellate court and while discussing the same in paragraph 13 has categorically held that in both the judgment and decree in the civil suit as well as the appellate Court no favourable order is passed in faour of the petitioner and thus *prima facie* no case is made out and held that in absence of any *prima facie* case, there is no necessity to go into the aspect of balance of convenience and irreparable loss. The finding of the facts recorded by the learned Civil Judge as well as by the learned Appellate Court is based on proper appreciation of evidence and this Court in its jurisdiction under Article 227 of the Constitution of India does not find any illegality or irregularity in the order impugned.

7. At this stage, learned counsel for the petitioner submits that though in the plaint, the details of the properties purchased by the petitioner through registered sale deed have not been happily worded, however, the petitioner has purchased the property bearing Khasra No. 382 area 0.429 Hq. situated at village Manipur, Tahshil Ambikapur District -Surguja (C.G.). No parties shall create third party interest on that.

8. This proposition is not opposed by the other parties.

9. In view of above, While maintaining the impugned order passed by the Court below it is observed that the either of the party shall not create any third party interest over the property comprised in piece of Khasra No. 382 area 0.429 Hq situated at Village Manipur Tahshil Ambikapur District Surguja, till disposal of the suit.

10. With the aforesaid observation(s)/direction(s), this writ petition is disposed of.

11. Pending interlocutory application (s), if any, stands disposed of.

Sd/-
(Sachin Singh Rajput)
Judge

Ami

**AMITA
DUBEY**

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