



2026:CGHC:12443



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MA No. 244 of 2025

Rajesh Kumar S/o Ram Kumar Aged About 37 Years R/o Nariyal Kothi
Dayalband, Bilaspur, Tahsil And District Bilaspur C.G. (Plaintiff)

Appellant(s)

versus

1 - Radha Bai (Dead) W/o Chandrapal Through Legal Representatives- Nill

**1.1 - Dipak Kashyap S/o Chandrapal Kashyap Aged About 30 Years R/o Kapil
Nagar, Prakash Kirana Store, Sarkanda, Tahsil And District Bilaspur C.G.**

**1.2 - Prakash Kashyap S/o Chandrapal Kashyap Aged About 28 Years R/o
Kapil Nagar, Prakash Kirana Store, Sarkanda, Tahsil And District Bilaspur
C.G.**

**1.3 - Smt. Roshni Kushwaha W/o Vinay Kushwaha Aged About 32 Years R/o
Kakori, C.O.D.G.T. Road Kanpur, P.O. Harjinder Nagar, Kanpur (U.P.)**

**2 - Parvati Bai W/o Sunder Singh Aged About 68 Years R/o Village Madholi,
P.O. Madholi, District Kanpur (U.P.) Present Address- Aharwa Near Saloni
Guest House, Kirana Stores, P.O. Harjinder Nagar, Tahsil And District Kanpur
(U.P.)**

**3 - Sudama Bai W/o Ramgulam R/o Behind Madhuban Bagicha Government
School, Dayalband Bilaspur, Tahsil And District Bilaspur C.G.**

**4 - Bandhulal S/o Ramgulam R/o Madhuban Bagicha, Dayalband, Bilaspur,
Tehsil And District Bilaspur C.G.**

**5 - Sukdev Ramgulam R/o Madhuban Bagicha, Dayalband, Bilaspur, Tehsil
And District Bilaspur C.G.**

6 - Ashok, S/o Ramgulam (Dead) Through Legal Representative- Nill

**6.1 - Smt. Saraswati Maurya W/o Ashok Maurya R/o Madhuban Bagicha,
Dayalband, Bilaspur C.G.**



6.2 - Sudha Maurya W/o Jitendra Maurya, D/o Late Ashok Maurya Aged About 28 Years R/o Ahirwa, Kanpur (U.P.) (Daughter)

6.3 - Warsha Maurya D/o Late Ashok Maurya (Daughter) Aged About 25 Years R/o Madhuban Bagicha, Dayalband, Bilaspur, Tahsil And District Bilaspur C.G.

6.4 - Raina Maurya Aged About 15 Years Minor Through Legal Representative Natural Guardian Mother Smt. Saraswati Maurya, R/o Madhuban Bagicha, Dayalband, Bilaspur, Tahsil And District Bilaspur C.G.

6.5 - Omi Maurya Aged About 13 Years Minor Through Legal Representative Natural Guardian Mother Smt. Saraswati Maurya, R/o Madhuban Bagicha, Dayalband, Bilaspur, Tahsil And District Bilaspur C.G.

7 - Kishan Dulari Wd/o Baldev (Died And Deleted) Nill

7.1 - Anil Kumar S/o Ram Kumar Aged About 46 Years R/o Nariyal Kothi Dayalband, Bilaspur, Tahsil And District Bilaspur C.G.

7.2 - Sunil Kumar S/o Ram Kumar Aged About 42 Years R/o Nariyal Kothi Dayalband, Bilaspur, Tahsil And District Bilaspur C.G.

8 - Rukmin Bai W/o Ram Kumar Aged About 46 Years R/o Nariyal Kothi Dayalband, Bilaspur, Tahsil And District Bilaspur C.G.

Respondent(s)

(Cause-title taken from Case Information System)

For Appellant(s)	: Mr. Somnath Verma, Advocate
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For Resp. No. 1A, 1B, 3, 4K & 5	: Mr. Shyam Kumar, Advocate
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For Resp. No. 7A, 7B and 8	: Mr. Anil Mourya, Advocate
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Hon'ble Shri Bibhu Datta Guru, J

Judgment on Board

16/03/2026

1. After advancing arguments at length, learned counsel for the appellant submits that the learned First Appellate Court has disposed of the appeal by remanding the suit to the Trial Court for adjudication of an issue which had already been framed by the Trial Court, but no finding



thereon was recorded while deciding the suit. The Appellate Court remanded the matter to the Trial Court to adjudicate the following issue:

“क्या प्रतिवादीगण क्रमांक 3 से 6 वाद के लंबित अवस्था में वर्ष 1999 माह जून में वादभूमि से वादीगण को जबरल बेदखल कर दिये?”

2. Learned counsel further submits that during the pendency of the first appeal, the appellant had preferred two applications under Order XLI Rule 27 of the Code of Civil Procedure on 04/02/2021 and on 13/08/2021 for adducing additional evidence. However, without deciding the said applications, the suit was remanded to the Trial Court. Learned counsel submits that he has no objection to the remand of the matter insofar as it relates to adjudication of the additional issue. His grievance, however, is that the aforesaid applications filed under Order XLI Rule 27 of the Code of Civil Procedure have not been considered while deciding the appeal. He, therefore, prays that he may be permitted to withdraw the present appeal with liberty to raise the aforesaid application, if so required, after the decision of the civil suit, in the event the decision goes against him and the occasion arises to prefer a first appeal under Section 96 of the Code of Civil Procedure.
3. With the aforesaid liberty, the miscellaneous appeal stands disposed of as withdrawn.

Sd/-
(Bibhu Datta Guru)
Judge