

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil First Appeal No. 257/2022

1. Ram Lal S/o Shri Balu Ji Gurjar, Aged About 35 Years, R/o Gudha Hal Mataji Ka Kheda, Aarjiya, Tehsil And Dist. Bhilwara (Raj.)
2. Smt. Chhau W/o Lt. Shri Narayan Ji Gurjar, Aged About 52 Years, R/o Gudha Tehsil Mandal, Distt. Bhilwara (Raj.)
3. Smt. Geeta D/o Lt. Shri Narayan Ji Gurjar, Aged About 39 Years, W/o Shri Shyamlal Gurjar, R/o Gudha Hal Guwaradi Tehsil Mandal, Distt. Bhilwara (Raj.)
4. Smt. Rekha Devi D/o Late Shri Narayan Ji Gurjar, Aged About 34 Years, W/o Shri Vinod Gurjar, R/o Gudha Hal Rampura Basti, Tehsil Shahpura, Distt. Bhilwara (Raj.)
5. Smt. Sushila D/o Late Shri Narayan Ji Gurjar, Aged About 30 Years, W/o Shri Shyamlal Gurjar, R/o Gudha Hal Mohalla Guwaradi, Tehsil And Distt. Bhilwara (Raj.)
6. Smt. Mannu D/o Late Shri Narayan Ji Gurjar, Aged About 28 Years, W/o Shri Suresh Gurjar, R/o Gudha Hal Kajlodiya, Tehsil Baneda, Distt. Bhilwara (Raj.)
7. Smt. Maya D/o Late Shri Narayan Ji Gurjar, Aged About 24 Years, W/o Shri Bharat Gurjar, R/o Gudha Hal Koli Mohalla, Near Kalka Mandir, Tehsil And Distt. Bhilwara. (Raj.)

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Versus

1. Balu S/o Shri Uda Gurjar, Aged About 82 Years, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
2. Shri Badri S/o Shri Balu (Gurjar), Aged About 45 Years, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
3. Shri Ganesh S/o Shri Balu Gurjar, Aged About 45 Years, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
4. Smt. Chunni D/o Shri Balu Gurjar, Aged About 50 Years, W/o Shri Bhura Ji Gurjar, R/o Gudha Hal Mata Ji Ka Kheda, Aarjiya, Tehsil Mandal, Distt. Bhilwara (Raj.)
5. Shri Jagdish S/o Shri Late Shri Narayan Ji Gurjar, Aged About 26 Years, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
6. Smt. Rukma W/o Late Shri Sukha @ Sukhdev Gurjar, R/o

Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)

7. Shri Shankar S/o Shri Sukha @ Sukhdev Gurjar, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
8. Shri Jamna S/o Shri Sukha @ Sukhdev Gurjar, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
9. Shri Gopal S/o Shri Sukha @ Sukhdev Gurjar, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
10. Shri Radheshyam S/o Shri Sukha @ Sukhdev Gurjar, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
11. Smt. Ghist W/o Late Lakshman Ji Gurjar, R/o Gudha, Tehsil Mandal, Distt. Bhilwara (Raj.)
12. State Of Rajasthan, Through Tehsildar, Tehsil Mandal, Distt. Bhilwara (Raj.)
13. State Of Rajasthan, Through Sub Registrar, Sub Registrar Office, Mandal Distt. Bhilwara (Raj.)

-----Respondents

For Appellant(s)	:	Mr. Deelip Kawadia with Mr. Priyanshu Bohra
For Respondent(s)	:	Mr. Nikhil Ajmer & Mr. Lokendra Singh Chundawat for Mr. Sandeep Saruparia

HON'BLE MS. JUSTICE REKHA BORANA

Order

18/04/2026

1. The present first appeal has been filed aggrieved of order dated 08.04.2022 passed by Additional District Judge No.3, Bhilwara in Civil Original Suit No.23/2022 whereby application under Order 7 Rule 11, CPC as filed on behalf of the defendants, stood allowed and as a consequence, the suit for declaration of the gift deeds to be null and void qua the plaintiffs, stood dismissed.
2. It is an admitted fact that the land in question is an agricultural land. Further, as per the pleadings in the plaint, the

said land is the ancestral undivided property of a joint Hindu family of which plaintiffs and defendant Nos.1 to 11 were the members. The plaintiffs have claimed their right in the ancestral property being the coparceners. It has been averred that two gift deeds have been executed by defendant No.1 in favour of defendant Nos.2 & 3. The said gift deeds being in excess of the share of defendant No.1, deserves to be declared null and void qua the rights of the plaintiffs and defendant Nos.4 & 5.

3. Learned Trial Court, while relying upon the judgment of Hon'ble the Apex Court in ***Pyarelal Vs. Shubhendra Pilonia; (2019) 2 DNJ (SC) 115*** observed that without the plaintiffs getting their rights qua the agricultural land declared by a competent Revenue Court first, they could not have maintained the present suit.

4. This Court is in consonance with the finding as recorded by the learned Trial Court.

5. Evidently, the plaintiffs have prayed for cancellation of sale deed & gift deed on the premise that they too had a share in the agricultural land, the same being an ancestral and undivided joint family property. It is not the case of the plaintiffs that the shares of the coparceners were ever declared or defined. Further, it is an admitted case of the plaintiffs that the property had never been partitioned. In that event, as is the settled position of law, where *Khatedari* rights are yet to be decreed, a claimant must first approach the Revenue Court. In ***Pyarelal*** (supra), Hon'ble the Apex Court observed that unless and until the rights qua an agricultural land are determined by the Revenue Court, no consequential relief for cancellation of any document pertaining to

the said land can be granted by the Civil Court. The above ratio has been reiterated in the recent judgment of a Co-ordinate Bench of this Court in ***Smt. Kamli Devi Vs. Smt. Ram Pyari & Ors.; 2023(1) RLW (Raj.) 740*** and the judgment of this Court in ***Sunil & Ors. Vs. Ostwal Phoschem (India) Ltd. & Ors.; 2025 SCC OnLine Raj 64.***

6. In view of the above settled position of law, the learned Trial Court rightly allowed application under Order 7 Rule 11, CPC. No case for interference in the order impugned is made out. The present appeal is hence, **dismissed.**

7. At this stage, learned counsel for the appellant submitted that that it be observed that limitation would not come in way of the appellants if they file a fresh suit after getting their rights declared by a Revenue Court. So far as the aspect of limitation is concerned, evidently, the plaint as preferred by the plaintiffs has been rejected on the count that they have to first get their rights declared by a competent Revenue Court. In that event, cause of action to challenge the gift deeds in question would definitely survive to the plaintiffs till the date they get their rights so declared.

8. Stay petition and pending applications, if any, stand **disposed of.**

(REKHA BORANA),J