



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Revision Petition No. 354/2025
CNR: RJHC020990052025 | URN: CR / 605U / 2025

Khemchand Sharma Son of Shri Ramswaroop Sharma, Aged About 39 Years, Resident of 57, Nada Ke Dhani, Muhana, Tehsil Sanganer, District Jaipur Rajasthan.

----Petitioner

Versus

1. Shravani Devi Daughter of Late Shri Banshidhar, Wife of Shri Babulal Sharma, Resident of Gram Kanadvaa, Tehsil Bassi, District Jaipur, at present Resident Mehto Ka Bass, Chandlai, Tehsil Chaksu District Jaipur Rajasthan.
2. Ramnarayan Son of Late Shri Banshidhar, Resident of Gram Kanadvaa, Tehsil Bassi, District Jaipur Rajasthan.
3. Rampyari Daughter of Late Shri Banshidhar Wife of Shri Ramswaroop Sharma, Resident of 57, Nada Ke Dhani, Muhana, Tehsil Sanganer, District Jaipur, Rajasthan.
4. Sub Registrar, Sanganer Second, Tehsil Sanganer, District Jaipur.
5. Sub Registrar, Bassi Tehsil, Bassi. District Jaipur.
6. State of Rajasthan, through Tehsildar Bassi. Tehsil Bassi District Jaipur Rajasthan.
7. Deputy Commissioner, Zone-09, Jaipur Development Authority, Jaipur Indira Circle, Jaipur

----Respondents

For Petitioner(s) : Mr. Vichitr through V.C.

For Respondent(s) :

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

18/08/2026

1. The present revision petition has been filed by the defendant/petitioner, assailing the order dated 29.10.2025 passed by the learned Additional District and Sessions Judge, Bassi, Jaipur Metropolitan-I, whereby the petitioner's application filed under Order 7 Rule 11 CPC dated has been rejected.

2. Brief facts of the present revision petition are that the plaintiffs/respondents filed a suit for declaration, and mandatory and permanent injunction averring that the plaintiff and defendant Nos. 1 to 3 belong to the same family, and that the suit property is an ancestral property wherein the plaintiff and defendant Nos.1 and 2 are having 1/3rd share each, which has been wrongfully



gifted by the plaintiff's father-*Late Bansidhar Sharma* to defendant No.3. It was further pleaded that the plaintiff is a Class-I legal heir of *Late Bansidhar Sharma*; thus, she has a share in the suit property and has therefore filed the present suit seeking a declaration with a prayer that the gift deed dated 03.11.2021 be declared ineffective qua the 1/3rd share of the plaintiff.

3. Upon service in the suit, the petitioner filed an application under Order 7 Rule 11 of CPC, stating that the plaintiff has instituted the present civil suit seeking cancellation of the registered gift deed dated 03.11.2021, which exclusively pertain to agricultural land, and that according to various pronouncements of this Court as well as the Hon'ble Apex Court, the same is not permissible. It was further averred that a civil suit concerning agricultural land is not maintainable unless the plaintiff first gets her *Khatedari* rights declared by a Revenue Court, which is already pending in a parallel suit (Revenue Suit No.160/2024) instituted by the plaintiff, and until a decree is obtained therein, the present civil proceedings are barred by law.

4. *Per contra*, the plaintiff filed a reply to the said application vehemently opposing the averments made therein and stating that the gift deed dated 03.11.2021 was obtained by the petitioner from *Late Bansidhar Sharma* by playing fraud. It was further stated that the arguments raised by the petitioner are not worth consideration, and the suit is not barred by any law and further held that the aforesaid objection cannot be looked into at the stage of an application under Order 7 Rule 11 as the same has to be strictly confined to the averments of the plaint.



5. After considering the plaint, the application under Order 7 Rule 11, and the reply thereto, the learned Trial Court vide order dated 29.10.2025, rejected the petitioner's application, holding therein that the *Jamabandi* presented along with the plaint reflected the plaintiff's 1/15th share in the present disputed *Khasra*, therefore the proposition laid down by the Hon'ble Apex Court is not applicable to the present case.

5.1. While passing the impugned order dated 29.10.2025, the learned Trial Court has also deprecated the conduct of the Advocate appearing on behalf of the petitioner before the learned Trial Court.

6. Learned counsel for the petitioner submits that the learned Court below erred in rejecting the application by misreading the judgment passed by the Hon'ble Supreme Court in the matter of ***Pyarelal Vs. Shubhendra Pilania and Ors.***¹. He further submits that the learned Court below also erred in dismissing the application while relying upon a *Jamabandi*, wherein the plaintiff's share is reflected as 1/15th of the suit property.

7. Heard learned counsel for the petitioner and perused the record.

8. It would be apt to reproduce Order 7 Rule 11 of CPC, which reads as under:-

"Rejection of plaint - *The plaint shall be rejected in the following cases:-*

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;



(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of rule 9.

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.] "

9. From a bare perusal of the plaint, it is reflected that the plaintiff has stated that the suit property is an ancestral/joint family property wherein she holds a share, which has been wrongly alienated by her father, Late Banshidhar Sharma, vide a gift deed dated 03.11.2021. It was further pleaded in the plaint that since the plaintiff is a Class-I legal heir of Late Banshidhar Sharma, the gift deed executed by him, to the extent of the 1/3rd share of the plaintiff, be declared null and void.

10. Furthermore, there was a *Jamabandi* presented along with the plaint which reflects that the plaintiff holds a 1/15th share in the disputed *Khasra*. This aspect of the said *Jamabandi* reflecting the plaintiff's 1/15th share in the disputed *Khasra* has not been questioned or refuted anywhere in the memo of the present revision petition.

11. As far as the reliance placed by the learned counsel for the petitioner on the judgment passed by the Hon'ble Supreme Court in the matter of **Pyarelal** (supra) is concerned, it was held therein that for seeking a relief qua agricultural land, where the document



is void, a prior declaration by the Revenue Court is required for maintaining the civil suit. However, the present suit relates to an ancestral land and the learned Trial Court has placed reliance upon a *Jamabandi* which reflects that the plaintiff holds a 1/15th share in the disputed *Khasra*; therefore, the judgment passed in ***Pyarelal*** (supra) stands on a different footing, is distinguishable on facts, and has no application to the present matter.

12. That apart, from a bare perusal of the plaint, it can be safely concluded that the averments make out a case of the gift deed dated 03.11.2021 being voidable. Such relief of cancellation of an instrument can only be granted by a Civil Court; thus, irrespective of the fact that the said gift deed dated 03.11.2021 relates to agricultural land, the present suit cannot be said to be barred by Section 207 of the Rajasthan Tenancy Act, 1955.

13. In that view of the matter, the arguments advanced by the learned counsel for the petitioner lack merit and are accordingly rejected.

14. Having considered the reasons assigned by the learned Court below in the impugned order, this Court is of the considered opinion that the rejection of the petitioner's application filed under Order 7 Rule 11 of CPC does not fall within the purview of a jurisdictional error.

15. Accordingly, I find no good ground to interfere with the impugned order so as to warrant the interference under Section 115 CPC. The present revision petition is dismissed.

16. While parting with the judgment, it is clarified that the adverse observations made by the learned Trial Court with regard to the alleged conduct of the counsel for the petitioner are wholly



unwarranted and should not have been made. Accordingly, the aforesaid observations/remarks qua the behavior and conduct of the learned counsel for the petitioner before the learned Trial Court are expunged.

17. As a necessary corollary, all pending applications, if any, shall stand disposed of.

(MANEESH SHARMA),J

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