



2026:CGHC:26700

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 729 of 2026

1 - Rewat Ram S/o Late Jagannath Aged About 66 Years R/o Village- Chhediya, Tahsil - Gurur, District Balod (C.G.)

2 - Narad Ram S/o Rewat Ram Aged About 39 Years R/o Village - Chhediya, Tahsil - Gurur, District - Balod (C.G.)

3 - Godawari D/o Rewat Ram Aged About 41 Years R/o Village - Chhediya, Tahsil- Gurur, District Balod (C.G.)

... Petitioner(s)

versus

1 - Ramshila Bai D/o Late Jagannath Aged About 74 Years R/o Village - Chiraigodi, Tahsil- Balod, District- Balod (C.G.)

2 - State Of Chhattisgarh Through The Collector, Balod, District - Balod (C.G.)

... Respondent(s)

For Petitioner(s) : Mr. Rajeev Kumar Dubey, Advocate

For Respondent No.2 : Mr. Rohan Shukla, P.L. for the State

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

Order on Board

30/06/2026

1. Heard.
2. Present is a writ petition under Article 227 of the Constitution of India filed by the petitioners against the impugned order dated 14.05.2026 passed by learned Principal District Judge, Balod in Civil Appeal No. A/11/2026, whereby the application filed by the petitioners under Order 41 Rule 5 of CPC has been rejected.
3. Learned counsel for the petitioners would submit that the petitioners were the defendants No.1 to 3 before the learned trial Court where the present respondent No.1 prosecuted a suit for declaration of title, partition and separate possession and also for permanent injunction. The said Civil Suit No. 3A/2022 has been decreed in favor of the plaintiff and she was held entitled for partition and separate possession of her 1/2 share of the suit property. The defendants No.1 to 3 challenged the impugned judgment and decree dated 08.01.2026 passed in Civil Suit No. 3A/2022 by the learned trial Court, before the learned Principal District Judge, Balod in Civil Appeal No. A/11/2026. In the said appeal, they have also filed an application under Order 41 Rule 5 of CPC for staying the effect and operation of the impugned judgment and decree, till the pendency of the first appeal. On the other side, the plaintiff initiated an execution proceeding for execution of judgment and decree dated 08.01.2026 before the Revenue Courts under Section 54 of the CPC for partition of the holdings. He would further submit that the learned First Appellate Court rejected the application filed by the petitioners under Order 41 Rule 5 of CPC by

holding that if the proceeding of the partition would be stayed, the preparation of final decree would be hampered. He would further submit that the petitioners are challenging the rights and title of the plaintiff over the suit property and if during pendency of the appeal, the decree would be executed, the very purpose of filing their First Appeal would be frustrated and serious question of their title would again arises, which may culminate into multiplicity of the litigation. Therefore, till the pendency of the First Appeal filed by the petitioners, the effect and operation of the impugned judgment and decree dated 08.01.2026 may be stayed.

4. I have heard learned counsel for the petitioners and perused the documents annexed with the petition.
5. The facts are not in dispute that a decree has been passed on 08.01.2026 in favor of the present respondent No.1 and she is prosecuting an execution application before the Revenue Court whereas the petitioners have filed an appeal before the learned Principal District Judge, Balod challenging the said judgment and decree dated 08.01.2026 passed by learned trial Court. The appeal is pending since 31.01.2026 and from perusal of the order sheet, it transpires that the notices have been served upon the plaintiff but the records of the trial Court are still not received, for which the date has been fixed as 30.06.2026. From perusal of the decree, it transpires that the decree for partition of 1/2 share of the suit property has been passed in favor of the plaintiff, which is under challenge before the Appellate Court. The decree is an executable decree which has been challenged by the petitioners before the Appellate Court. When an

executable decree has been challenged by the petitioners before the Appellate Court, the Appellate Court should have stayed the effect and execution of the said judgment and decree to avoid any further controversy, till the pendency of the appeal.

6. Considering the nature of the decree and the fact that the first appeal is pending before the learned Appellate Court, without commenting anything on merits of the case, the learned trial Court is directed to decide the first appeal pending before it within three months from the next date fixed before it, after giving proper opportunity of hearing to the parties, in accordance with law and till then, the effect and execution of the judgment and decree dated 08.01.2026 passed in Civil Suit No. 3A/2022 by the learned trial Court be kept in abeyance.
7. With the aforesaid observation and direction, the present writ petition is **disposed of.**

Sd/-
(Ravindra Kumar Agrawal)
JUDGE