



2026:CGHC:25234

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 411 of 2025

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Rohni Kumar Patel Son Of Late lakhanlal, Aged About 53 Years Resident Of Village Tarda,
Tahsil Barpali,district Korba (C.G.) (Appellant/defendant No. 2)

... Appellant

versus

1 - Smt. Kaushilya Bai Wife Of Late lakhanlal, Aged About 75 Years (Defendant No. 1)
Resident Of Village Tarda, Tahsil Barpali, District Korba (C.G.)

2 - Harkumari Daughter Of Late lakhanlal, Aged About 54 Years Resident Of Village Tarda,
Tahsil Barpali District Korba (C.G.) (Plaintiff)

3 - Smt. Shail Kumari D/o Of Late lakhanlal Aged About 47 Years Resident Of Village
Tarda, Tahsil Barpali District Korba (C.G.) (Plaintiff)

4 - Shyam Sunder, Son Of Bhagwat, Residents Of Village Jawali, Tahsil Katghora, District
Korba (C.G.)

5 - Hari Om Son Of Bhagwat, Residents Of Village Jawali, Tahsil Katghora, District Korba
(C.G.)

6- Naib-Tahsildar/tahsildar, Barpali District Korba (C.G.)

7 - State Of Chhattisgarh Through The Collector, Korba, District Korba (C.G.) (Defendants)
... Respondent(s)

For Appellant : Mr. Somnath Verma, Advocate
For Respondents No. 6 & 7 : Mr. Anand Gupta, Dy. GA

(Hon’ble Shri Justice Sachin Singh Rajput)

Judgment on Board

19.06.2026

1. Heard on admission.

2. The parties shall be referred to according to their original status before the learned Trial Court.
3. This is an appeal preferred under Section 100 of the Code of Civil Procedure, 1908 (for short, "CPC") assailing the legality, correctness and validity of the judgment and decree dated 07.05.2025 passed by the 3rd Additional District Judge, Korba (C.G.) in Civil Appeal No. 7A/2024.
4. By the impugned judgment, the appeal preferred by the appellant under Section 96 of the CPC against the judgment and decree dated 13.03.2024 passed by the 2nd Additional Civil Judge Class-I, Kartala of 1st Civil Judge Class-1, Korba, District Korba (C.G.) in Civil Suit No. 7A/2018 was dismissed affirming the said judgment.
5. The facts of the case in a nutshell is that respondent Nos. 2 and 3/plaintiffs instituted a civil suit in respect of the suit property comprising Khasra Nos. 405/5, 409/1, 626/1, 626/3, 986/4, 1111/1, 1138/1, 1138/4, 1404/4 and 1404/5, admeasuring 0.259 hectare, 0.040 hectare, 0.458 hectare, 0.243 hectare, 0.049 hectare, 0.024 hectare, 0.032 hectare, 0.061 hectare, 0.037 hectare and 0.061 hectare respectively having a total area of 1.263 hectares situated at Village Tarda, P.H. No. 1, R.I. Circle Barpali, Tahsil Kartala, District Korba (C.G.). The suit was filed seeking declaration of title, declaration that the orders dated 29.12.1989 and 07.11.2016 are null and void and partition of the suit property by allotment of equal shares to the plaintiffs and defendant Nos. 1 and 2. It is not in dispute that the suit property is ancestral in nature. Defendant No. 1 is the mother of the plaintiffs and defendant No. 2 and all of them derive their rights through their predecessor-in-interest Late Janakram.
6. As per the pleadings, the suit property originally belonged to Late Janakram who died in the year 1994. The father of the plaintiffs and defendant No. 2

Late Lakanlal had predeceased Janakram. Defendant No. 2 and the plaintiffs are the legal heirs of Late Lakanlal while defendant No. 1 is his widow. It was further pleaded that defendant Nos. 1 and 2 got their names mutated in the revenue records without impleading the plaintiffs in the mutation proceedings, resulting in the passing of the mutation order dated 29.12.1989 in their favour. Since the suit property was ancestral property, the plaintiffs asserted their right as co-sharers and sought mutation of their names in the revenue records. Accordingly, they instituted the present suit seeking partition of the suit property by allotment of equal shares and for declaration that the aforesaid orders passed by the revenue authorities are null and void.

7. Defendant No. 1 i.e. Kaushilya Bai filed a written statement supporting the case of the plaintiffs. Defendant No. 2, however, denied the averments made in the plaint and contested the suit. It was pleaded that the plaintiffs had voluntarily relinquished their rights in the suit property without any undue influence, coercion, or pressure, and that the mutation orders were passed on the basis of their consent. It was further contended that the names of defendant Nos. 1 and 2 were duly recorded in the revenue records and that the mutation orders had never been challenged by the plaintiffs. On the aforesaid grounds, dismissal of the suit was prayed for.
8. On the basis of the pleadings of the parties, the learned Trial Court framed the necessary issues for determination.

<i>“1. Whether the orders dated 29.12.1989 and 07.11.2016 passed by Defendant No. 03, the Naib Tahsildar, Barpali, District Korba (C.G.), being contrary to law, are null and void?”</i>	“Proved.”
<i>2. Whether the plaintiffs, along with Defendant Nos. 01, 02, 05, and 06, are entitled to obtain partition in equal shares of the suit property</i>	“Proved”

<i>situated at Village Tarda, P.H. No. 1, R.I. Circle Barpali, Tahsil Kartala, District Korba, Chhattisgarh, comprising Khasra Nos. 405/5, 409/1, 626/1, 626/3, 986/4, 1111/1, 1138/1, 1138/4, 1404/4 and 1404/5, admeasuring 0.259 hectare, 0.040 hectare, 0.458 hectare, 0.243 hectare, 0.049 hectare, 0.024 hectare, 0.032 hectare, 0.061 hectare, 0.037 hectare and 0.061 hectare respectively, totaling 10 Khasra numbers with an aggregate area of 1.263 hectares?</i>	
<i>3. Whether the present suit filed by the plaintiffs is barred by limitation?</i>	“Not Proved.”
<i>4. Whether the suit has been properly valued by the plaintiffs?</i>	“Proved”
<i>5. Relief and costs of the suit.</i>	<i>As per Paragraph No. 35 of the Judgment.</i>

9. The parties adduced oral as well as documentary evidence in support of their respective cases.
10. Upon appreciation of the evidence available on record, the learned Trial Court decided Issue Nos. 1 and 2 in favour of the plaintiffs and held them to be proved. Issue No. 3 was held not proved, whereas Issue No. 4 was held proved. Consequently, the suit was decreed.
11. Aggrieved by the judgment and decree passed by the learned Trial Court, defendant No. 2 preferred a first appeal before the learned First Appellate Court. The appeal was dismissed, affirming the findings recorded by the learned Trial Court which has led to the filing of the present second appeal under Section 100 of the CPC.
12. Learned counsel for the appellant vehemently argued that both the Courts below have committed a grave error in decreeing the suit and dismissing the

appeal preferred by the appellant without properly appreciating the material available on record. It was submitted that the findings recorded by the learned Trial Court on the issues framed are contrary to law, perverse, and unsupported by the evidence on record. It was further contended that the plaintiffs being sisters of the appellant-defendant No. 2 had voluntarily relinquished their rights in the suit property at the time of mutation after the death of their grandfather and, therefore, cannot now be permitted to resile from their earlier stand and claim partition and equal shares in the suit property. It was also argued that the suit was barred by limitation and was liable to be dismissed. Accordingly, it was prayed that the substantial questions of law proposed in the memorandum of appeal may be formulated and the appeal be admitted for hearing.

13. Learned counsel appearing for respondent Nos. 6 and 7/State submitted that the dispute is essentially between the plaintiffs and the private defendants and that the State is merely a formal party to the proceedings.
14. Heard learned counsel for the parties and perused the entire record with due care and circumspection.
15. From a perusal of the record, it is evident that the plaintiffs and defendant No. 2 are siblings and are the children of Late Lakanlal. It is also an admitted position that the suit property originally belonged to their grandfather Late Janakram. Since Late Lakanlal predeceased his father Janakram, upon the death of Janakram the plaintiffs acquired rights in the ancestral property as co-sharers. The contention advanced by learned counsel for the appellant that the plaintiffs had relinquished their rights in the suit property cannot be accepted, as there is no registered deed of relinquishment available on record. Mere oral

assertions regarding relinquishment of rights in immovable property cannot be accepted in the absence of a legally valid and registered relinquishment deed.

16. While deciding Issue Nos. 1 and 2, the learned Trial Court categorically held that the recording of the names of defendant Nos. 1 and 2 in the revenue records was not carried out in accordance with law. The learned Trial Court further observed that mutation entries in revenue records do not confer or establish title over the property. Reliance was placed upon the judgment of the Hon'ble Supreme Court in case of **Vineeta Sharma v. Rakesh Sharma, 2021(1) MPLJ 209 SC**, in order to hold that daughters are entitled to equal coparcenary rights in ancestral property. In the considered opinion of this Court, the findings recorded by the learned Trial Court do not warrant interference. The said findings of fact have been duly affirmed by the learned First Appellate Court.

17. It is well settled that for admission of a second appeal under Section 100 of the CPC, the existence of a substantial question of law is sine qua non, as held by the Hon'ble Supreme Court in **Sir Chunilal V. Mehta and Sons Ltd. v. Century Spinning and Manufacturing Co. Ltd., AIR 1962 SC 1314**, and **Chandrabhan (Dead) through LRs. and Others v. Saraswati and Others, 2022 SCC OnLine SC 1273**. In the present case, no substantial question of law arises for consideration.

18. Upon a careful scrutiny of the evidence available on record, this Court is of the considered opinion that neither the learned Trial Court nor the learned First Appellate Court has committed any error of law or fact warranting interference in exercise of jurisdiction under Section 100 of the CPC. Since no substantial question of law is involved in the present appeal, the same deserves to be dismissed.

19. Accordingly, the appeal is **dismissed** at the admission stage itself. All pending applications, if any, also stand disposed of. Decree be drawn accordingly. No order as to costs.

Sd/-

(Sachin Singh Rajput)

JUDGE

H. Ansari