

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No.65 of 2016**

1. Dwitiya Bai W/o Late Harishankar Sidar, aged about 60 years,
 2. Minketan S/o Late Harishankar Sidar, aged about 37 years,
 3. Gajanand S/o Late Harishankar Sidar, aged about 35 years,
 4. Kanhu S/o Late Harishankar Sidar, aged about 32 years,
 5. Santoshi Bai D/o Late Harishankar Sidar, aged about 25 years,
- S.No.1 to 5 Resident of village-Porda, Tah. Gharghoda,
Distt.Raigarh, Civil and Revenue Distt.Raigarh (CG)

----Petitioners**Versus**

1. Tarikh Giri S/o Late Madhugir, by caste Goswami, aged about 60 years, R/o village-R/o Village-Porda, Tah. & P.S. Gharghoda, Distt.Raigarh (CG)
2. Vishal Giri S/o Late Madhugir, Village-Porda, Tah. & P.S. Gharghoda, Distt.Raigarh
3. Khageshwar Giri S/o Late Maghugir, Village-Porda, Tah. & P.S. Gharghoda, Distt.Raigarh
4. Visheshwar Giri S/o Late Madhugir, Village-Porda, Tah. & P.S. Gharghoda, Distt.Raigarh
5. Jagdish Giri S/o Late Madhugir, Village-Porda, Tah. & P.S. Gharghoda, Distt.Raigarh (CG)
6. State of Chhattisgarh through Collector Raigarh, Distt.Raigarh (CG)

---- Respondents

For Petitioners	:	Mr.M.K.Sinha, Advocate
For Res.No.1 to 5	:	Mr.Roop Naik, Advocate
For Res.No.6	:	Mr.Sameer Behar, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****30/06/2016**

1. The plaintiff's suit is for declaration of title and permanent injunction against defendants No.1 to 5.
2. Defendants No.1 to 5 appeared before the trial Court and filed an

application under Order 7 Rule 11 of the CPC stating inter-alia that suit is barred by the provisions of Section 257(I-1) of the Chhattisgarh Land Revenue Code, 1959 (hereinafter called as "Code") as the matter is covered under Section 170B of the Code. The trial Court by its impugned order rejected the same finding no force in the said application.

3. Against the aforesaid order, this revision has been filed by defendants No.1 to 5.

4. Mr.M.K.Sinha, learned counsel for the petitioners/defendants No.1 to 5 would submit that the trial Court is absolutely unjustified in rejecting the application filed by defendants No.1 to 5 under Order 7 Rule 11 of the CPC.

5. I have heard learned counsel for the parties.

6. It is well settled that in order to decide the application, the plaint averment has to be examined to find out whether the suit is barred by law.

7. After going the plaint averments and in view of the finding of the trial Court, it cannot be held at this stage that suit is barred by Section 257(I-1) of the Code. I do not find any jurisdictional error in the order impugned. However, the petitioners are free to raise the said plea in the written statement. If such a plea is raised in the written statement, the trial Court will consider the feasibility of framing issue in this regard and if issue is framed and the trial Court considers that such issue is triable as a preliminary issue, the trial Court would decide the same as preliminary issue in accordance with law expeditiously.

8. With the aforesaid observation, the civil revision finally stands disposed of.

Sd/-

(Sanjay K. Agrawal)
JUDGE