

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 61 OF 2017**

1. Dwitiya Bai W/o Late Harishankar Sidar, Aged About 60 Years R/o Village Porda, Tah. Gharhgoda, Distt. Raigarh, Civil And Revenue Distt. Raigarh, Chhattisgarh
2. Minketan S/o Late Harishankar Sidar, Aged About 37 Years R/o Village Porda, Tah. Gharhgoda, Distt. Raigarh, Civil And Revenue Distt. Raigarh, Chhattisgarh
3. Gajanand S/o Late Harishankar Sidar, Aged About 35 Years R/o Village Porda, Tah. Gharhgoda, Distt. Raigarh, Civil And Revenue Distt. Raigarh, Chhattisgarh
4. Kanhu S/o Late Harishankar Sidar, Aged About 32 Years R/o Village Porda, Tah. Gharhgoda, Distt. Raigarh, Civil And Revenue Distt. Raigarh, Chhattisgarh
5. Santoshi Bai D/o Late Harishankar Sidar, Aged About 25 Years R/o Village Porda, Tah. Gharhgoda, Distt. Raigarh, Civil And Revenue Distt. Raigarh, Chhattisgarh

---- Applicants**Versus**

1. Tarikh Giri S/o Late Madhugir, Aged About 60 Years Caste Goswami, R/o Village Porda, Tah. & P.S. Gharghoda, Distt. Raigarh, Chhattisgarh
2. Vishal Giri S/o Late Madhugir, Village Porda, Tah. & P.S. Gharghoda, Distt. Raigarh, Chhattisgarh
3. Khageshwar Giri S/o Late Madhugir, Village Porda, Tah. & P.S. Gharghoda, Distt. Raigarh, Chhattisgarh
4. Visheshwar Giri S/o Late Madhugir, Village Porda, Tah. & P.S. Gharghoda, Distt. Raigarh, Chhattisgarh
5. Jagdish Giri S/o Late Madhugir, Village Porda, Tah. & P.S. Gharghoda, Distt. Raigarh, Chhattisgarh
6. Nathuram S/o Bhondu, Aged About 65 Years Village Porda, Tah. & P.S. Gharghoda, Distt. Raigarh, Chhattisgarh
7. State Of Chhattisgarh, Through Collector Raigarh Distt. Raigarh, Chhattisgarh
8. South Eastern Coalfield Limited, Through Managing Director, S.E.C.L. Seepat Road, Bilaspur, Tah. & Distt. Bilaspur, Chhattisgarh.

---- Respondents

For Applicants	:	Mr. Manoj Kumar Sinha, Advocate
For non-applicant No. 7/State	:	Mr. R.K. Jaiswal, P.L.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****26/04/2017**

1. This revision is preferred under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') by defendants No. 1 to 5 by questioning the propriety of the order dated 16/02/2017 passed by the Second

Additional District Judge, Raigarh in Civil Suit No. 58-A/2015 by which, the application filed under Order 7 Rule 11 of the CPC, seeking rejection of plaint, has been rejected.

2. Undisputed facts of the case are that the plaintiff Tarikh Giri, non-applicant No. 1 herein has instituted a suit in the year 2015 claiming declaration of title and injunction with regard to the property in question bearing Khasra No. 294/1, admeasuring 7.57 acres as the same was purchased by his father Madhugir by virtue of a registered deed of sale dated 05/03/1975, though it was got registered in the name of his close friend late Sirdhar, the predecessor interest of the defendants No. 1 to 5. It is pleaded further that after the death of said Sirdhar, the defendants No. 1 to 5 are started claiming their interest over the suit property by taking an undue advantage of their names recorded in revenue papers. The plaintiff is, therefore, constrained in filing the suit in the instant nature for declaration of title and permanent injunction.

3. The aforesaid claim was contested by the defendants No. 1 to 5/applicants by submitting their written statements and after considering the pleadings of the parties, the trial Court has framed the issues. During pendency of the suit, present applicants have moved an application two years after the institution of the suit as per the provisions prescribed under Order 7 Rule 11 read with Section 151 of the CPC for rejection of the plaint. The said application was opposed by the plaintiff/non-applicant No. 1.

4. After considering the said application, the trial Court has rejected the same by observing that an additional issue No. 9 has already been framed in this regard in relation to the maintainability of the suit and observed further that the same could be decided separately without being influenced by rejection of this application.

5. Having considered the facts and circumstances of the case and particularly in view of framing of additional issue No. 9, coupled with the aforesaid observations of the trial Court while rejecting the said application, I do not find any substance in this revision so as to interfere with the order impugned. Accordingly, the same deserves to be and is hereby dismissed in limine.

No order as to the costs.

Sd/-

(Sanjay Agrawal)
Judge