

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No. 24 of 2018**

1. Smt. Neeta Devi Bhanshali, aged about 43 years, W/o Rajkumar Bhanshali
2. Smt. Mamta Devi Bhansali, aged about 40 years, W/o Mukesh Chandra Bhanshali

Both are resident of Malviya Road, Baijnathpara Ward, Rapur, Tahsil & Distt. Raipur (C.G.) (Defendants No. 1 & 2)

----Applicants

Versus

Smt. Rajni Bai Kotela @ Mannu Bai, aged about 70 years, W/o Mr. B.L. Kotela, resident of Civil Line, Raipur (C.G.), through Attorney holder Praveen Kumar Katela, S/o Mr. B.L. Katela, resident of Civil Line, Raipur (C.G.)

---- Respondent/plaintiff

For Applicants	: Shri Ankur Agrawal, Advocate
For Respondent	: Shri V.G. Tamaskar, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

06/09/2018

1. By the impugned order dated 04.01.2018 (order dated 04.01.2017 wrongly mentioned in the order) passed by 4th Additional Judge of 1st First Additional District Judge, Raipur, the defendants' application under Section 10 read with Order 2 Rule 2 and Order 7, Rule 11 of the Code of Civil Procedure (henceforth "CPC") has been rejected.
2. Learned counsel appearing for the applicants/defendants would submit that impugned order is bad and unsustainable in law as the suit is barred by limitation or hit by provisions contained in Section 10 of the CPC and the plaint is liable to be rejected.
3. Per contra, counsel for the respondent would support the impugned order.
4. I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.
5. The trial Court has clearly recorded a finding that parties and the relief claimed in the

earlier suit is different from the instant suit and, as such, the plea has already been raised in the written statement and the issue will be framed with regard to that pleading. In the considered opinion of this Court, the trial Court has given sufficient and valid reasons in rejecting the application, in which, I do not find any illegality or perversity warranting interference in the revisional jurisdiction.

6. Accordingly, the civil revision, being devoid of merit, is liable to be and is hereby dismissed. However, the applicants are at liberty to make an application for treating the issue as a preliminary issue and that will be decided in accordance with law.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

