

HIGH COURT OF CHHATTISGARH, BILASPUR**CR No. 1 of 2021**

- Chaturbhuji Pradhan @ Bhujo Pradhan S/o Bheem Pradhan Aged About 45 Years R/o Parsapali, Tehsil Basna, District Mahasamund Chhattisgarh

---- Applicant**Versus**

1. Amar Pradhan S/o Chaturbhuji Pradhan @ Bhujo Pradhan Aged About 19 Years R/o Parsapali, Tehsil Basna, District Mahasamund Chhattisgarh
2. Smt. Bilasini W/o Chaturbhuji Pradhan @ Bhujo Pradhan Aged About 40 Years R/o Parsapali, Tehsil Basna, District Mahasamund Chhattisgarh

---- Non-applicants

For the applicant	:	Mr. Manoj Paranjpe, along with Mr. Shubhank Tiwari, Advocates
For Non-applicants	:	Not noticed.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****22.01.2021**

1. Heard on admission.
2. Applicant has preferred instant Civil Revision against the order dated 17.12.2020 passed by 1st Additional Civil Judge, Class-II, Basna District Mahasamund Chhattisgarh in Civil Suit No.13A/2019 whereby and whereunder he rejected his application filed under Section 11 of Civil Procedure Code, 1908 (In short "CPC").
3. Non-applicant No.1 had filed an application for declaration, partition and permanent injunction against the applicant.
4. Applicant filed an application under Section 11 of CPC which was rejected by the Court on 17.12.2020.
5. Being aggrieved, the applicant has preferred instant revision.
6. It would be pertinent to mention the provisions of Section 115 of CPC which reads as under:-

"115. Revision [(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such

- the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings.

- (2) The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.
- (3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.

Explanation.—In this section, the expression “any case which has been decided” includes any order made, or any order deciding an issue, in the course of a suit or other proceeding.”

7. It would be noteworthy to mention that the Section 11 of CPC which reads as under:-

“11. Res judicata- No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.”

Explanation I.- xxx xxx xxx

Explanation II.- xxx xxx xxx

Explanation III.-xxx	xxx	xxx
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Explanation IV.-xxx	xxx	xxx
Explanation V.-xxx	xxx	xxx
Explanation VI.-xxx	xxx	xxx
Explanation VII.-xxx	xxx	xxx
Explanation VIII.-xxx	xxx	xxx

8. In the case in hand, there is no former suit between the same parties. Moreover, criminal proceedings cannot be termed as civil suit. Moreover, it cannot be said that matter in issue which was in criminal proceedings is same in said civil suit.

9. Looking to the above mentioned facts and circumstances of the case, this Court finds that trial Court did not commit any illegality or material irregularity while exercising its jurisdiction.

10. Consequently, this Court finds that instant revision is not fit for admission. Hence, the revision is dismissed at motion hearing stage.

11. I.A.No.1 is also rejected.

Sd/-

(Sharad Kumar Gupta)
Judge