IN THE HIGH COURT OF JHARKHAND AT RANCHI
Civil Revision No. 31 of 2024

Rajendra Lal S/o Late Janki Sao, Aged about 69 years, Resident of:- Boddam Bazar, C/o Alankar Jewellers, Malviya Marg, P.O- Hazaribagh, P.S. – Sadar, District: - Hazaribagh (Jharkhand)

... Petitioner/Defendant No.1

Versus

1. Premlata Verma D/o Late Janki Sao & wife of Late Paramhansh Prasad, Aged about 72 years, Resident of ward no 12, Near Police Station Salempur Barh Bazar, P.O + P.S. – Salempur, District – Patna (Bihar).

... Opp. Party/Plaintiff

2. Neelam Devi W/o Late Shambhu Lal, aged about 61 years.
3. Prashant Kumar Verma S/o Late Shambhu Lal, aged about 44 years
4. Vishal Kumar Verma S/o Late Shambhu Lal, Aged about 41 years. Opposite party/defendant No. – 2 to 4 are Resident of Boddam Bazar, Malviya Marg, P.O – Hazaribagh, P.O – Sadar, District – Hazaribagh (Jharkhand).

... Opp. Parties/Defendants No. 2 to 4

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner	:	Mr. Dhirendra Kr. Deo, Adv.
For the O.P. No.1	:	Mr. Mahesh Tewari, Adv. Mr. Abhishek Kumar Dubey, Adv.
For the O.P. Nos.2 to 4	:	Mr. Atif Anwar, Adv. Ms. Akriti, Adv.

Order No.07/Dated-17.12.2025

1. Heard learned counsel for the petitioners as well as learned counsel for the opposite parties.

2. Instant civil revision is directed against the order dated 06.03.2024 passed by Civil Judge (Senior Division-VI), Hazaribagh in Original (Partition) Suit No.124 of 2021, whereby and whereunder the petition filed by the present petitioner / defendant No.1 under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure has been rejected.

3. Factual matrix giving rise to this revision is that the opposite party No.1/plaintiff being daughter of late Janki Sao has filed the aforesaid title suit for division of properties among the heirs including herself left by her late father in fixed deposit of

Rs.30,00,000/- fully described in the schedule attached to the plaint in the Punjab and Sindh Bank. It is alleged that late Janki Sao died leaving his son Rajendra Lal (defendant No.1 present petitioner of the case) and grandsons namely Prashant Kumar Verma and Vishal Kumar Verma sons of predeceased son of Janki Sao who died on 17.11.2013, therefore, all the heirs and successors of deceased Janki Sao had one third share in the suit scheduled property. The father of plaintiff died on 05.11.2019, thereafter, the plaintiff raised demand of partition from defendant No.1 on 13.09.2021 and sent legal notice and response to the above notice. The defendant No.1 flatly denied/refused to partition the properties and the reply of notice was received on 24.09.2021. Therefore, the plaintiff instituted the suit for carving out one third share in the suit scheduled property and allotting her share.

4. The defendant No.1/petitioner appeared and filed his written statement wherein it is admitted that late Janki Sao had fixed of Rs.30,00,000/- each of Rs.5,00,000/- dated 13.09.2017 and which became mature on 13.09.2018 and total amount with interest was each = Rs.5,36,984 x 6. It is alleged that the said late Janki Sao has withdrawn all the fixed deposit amount during his life time which was used by him exclusively and the petitioner has no concern with the said amount as alleged by the plaintiff. It is also pleaded that during his life time late Janki Sao through declaration dated 07.10.2019 has exclusively given all the movable and immovable property existing on the said date to the petitioner after his death. The said declaration is Annexure-6. Therefore, the petitioner filed an application under Order VII Rule 11 read with Section 151 of the C.P.C. stating *inter alia* that the plaintiff has no cause of action for the suit and has entered into bogus litigation which is liable to be dismissed at the very threshold. It is also pleaded that a female child cannot inherit as she cannot be considered as coparcener and according to banking regulations, only the account holder or a nominee can manage accounts

posthumously and without a nominee, legal heirs need a succession certificate as per Section 372 of the Indian Succession Act.

5. The learned trial court heard the application filed by the defendant under Order VII Rule 11 of the C.P.C. and vide impugned order dated 06.03.2024, the same was rejected.

6. I have gone through the impugned order in the light of contentions raised on behalf of both side and the learned trial court recorded findings that there is sufficient cause of action for the suit and the issues raised by defendants or his probable defence and subject matter of the trial of the suit.

7. From the bare pleadings and averments in the plaint, it is quite obvious that plaintiff has claimed one third share in the movable properties in the shape of fixed deposit by her late father and she issued legal notice to the defendant No.1, who happens to be elder brother and karta of the family for partition of the properties left by her father which was refused by him through reply of legal notice. Therefore, merely because the defendant No.1/petitioner has set up his own case that there was a will executed by late Janki Sao and he happens to be nominee in the fixed deposits, cannot form basis for rejection of plaint and only can be decided after full-fledged trial. Therefore, I do not find any error of law in the impugned order calling for any interference. This revision has no merits and accordingly, **dismissed**.

8. Pending I.As., if any, stand disposed of accordingly.

9. Let a copy of this order be sent to the concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Dated: 17th December, 2025
Sachin/
Uploaded on: 18/12/2025