CGHC010399402025 2026:CGHC:46271

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SA No. 516 of 2025

1. Falguni Das D/o Late Shatrughan Das Vaishnav Aged About 65 Years R/o Gram Kirgi, Post Pendri Tahsil Dongargaon District - Rajnandgaon (C.G.)

2. Birendra Das S/o Late Shatrughan Das Vaishnav Aged About 60 Years R/o Gram Kirgi, Post Pendri Tahsil Dongargaon District - Rajnandgaon (C.G.)

3. Khilendra Das S/o Late Shatrughan Das Vaishnav Aged About 50 Years R/o Gram Kirgi, Post Pendri Tahsil Dongargaon District - Rajnandgaon (C.G.)

4. Geeta Bai D/o Late Shatrughan Das Vaishnav Aged About 52 Years R/o Gram Kirgi, Post Pendri Tahsil Dongargaon District - Rajnandgaon (C.G.)

5. Sita Bai D/o Late Shatrughan Das Vaishnav Aged About 45 Years R/o Gram Kirgi, Post Pendri Tahsil Dongargaon District - Rajnandgaon (C.G.)

6. Gopeshwari D/o Late Shatrughan Das Vaishnav Aged About 40 Years R/o Gram Kirgi, Post Pendri Tahsil Dongargaon District - Rajnandgaon (C.G.)

... Appellants

versus

1. Smt. Gouri Bai W/o Shri Rikhidas Vaishnav Aged About 48 Years R/o Dindayal Nagar, Block No. 36/509 Korinbhata Rajnandgaon Tehsil And District - Rajnandgaon (C.G.)

2. Dhanwant Kumar S/o Late Shatrughan Das Vaishnav Aged About 40 Years R/o Village Kirgi, Post Pendri Tahsil Dongargaon District - Rajnandgaon (C.G.)

3. State Of Chhattisgarh Through District Magistrate Rajnandgaon District - Rajnandgaon (C.G.)

... Respondents

For Applicant	:	Mr. Sumit Singh, Advocate along with Mr. Anmol Gupta, Advocate.
For Respondent Nos. 1 and 2	:	Mr. Rakesh Kumar Thakur, Advocate.
For Respondent No. 3.	:	Mr. Anand Gupta, Dy. Govt. Advocate.

Hon'ble Shri Justice Sachin Singh Rajput

Judgment On Board

02.11.2026

1. Mr. Sumit Singh, learned counsel, along with Mr. Anmol Gupta, learned counsel, appearing for the appellants.

2. Mr. Rakesh Kumar Thakur, learned counsel, appearing for the respondent Nos. 1 and 2.

3. Mr. Anand Gutpa, learned Deputy Government Advocate, appearing for the respondent No. 3/State.

4. The present appeal has been preferred under Section 100 of the Code of Civil Procedure, 1908 (for short, “the CPC”), against the judgment and decree dated 14.07.2025 passed by the learned 1st District Judge, District - Rajnandgaon, (C.G.), in Civil Appeal No. 39-A/2023, whereby the appeal preferred by the appellants/defendants against the judgment and decree dated 11.07.2023 passed by the learned 2nd Civil Judge, Class-I, District - Rajnandgaon, (C.G.), in Civil Suit No. 85-A/2020, has been dismissed and the judgment and decree passed by the learned trial Judge have been affirmed.

5. The parties shall be referred to hereinafter as per their description before the learned trial Court.

6. The plaintiff/respondent No. 1 instituted a civil suit seeking declaration of her title, along with defendant Nos. 1 to 7, and partition of her 1/8 share in the suit property comprising Khasra Nos. 68/1 and 72/1, admeasuring 4.7940 hectares and 0.664 hectares, respectively, situated at Village Kirgi, Patwari Halka No. 5, R.I.C - Todibod, Tahsil – Dongargaon, District – Rajnandgaon, (C.G.). The plaintiff also sought a declaration that the order dated 28.11.2020 passed in Revenue Case No. 201911093100003/01/अ27 for the year 2019-20, pertaining to the mutation of names in the revenue records, was illegal and not binding upon her.

7. The admitted facts of the case are that the plaintiff is the daughter of Kumodini Bai, who was the sister of defendant Nos. 1 to 7. Shatrughan Das was the father of Kumodini Bai and defendant Nos. 1 to 7. It is further admitted that the maternal grandfather of the plaintiff, namely, Shatruhan Das Vaishnav, was a resident of Village Kirgi, Tehsil – Dongrgaon, District – Rajnandgaon, and the ancestral property in question was recorded in his name. The suit property is claimed to be ancestral property of the plaintiff and defendant Nos. 1 to 7, and no partition thereof had taken place. The maternal grandfather of the plaintiff died on 10.04.1999, leaving behind eight children. The mother of the plaintiff, Kumodini Bai, being one of the daughters of Shatrughan Das, subsequently died on 05.07.2015. The plaintiff is stated to be her only daughter and legal heir.

8. It is further pleaded that approximately 190 acres of land situated at Village Kirgi and about 120 acres of land situated at Village Bharritola

were recorded in the name of Brij kishore Das @ Brijdas Bairagi in the revenue records for the year 1919-20. The aforesaid properties were partitioned amongst his sons, namely, Shatruhan Das and Sirotan Das. In the said partition, approximately 63.04 acres of land situated at Village Kirgi fell to the share of Shatruhan Das, whereas an almost equivalent share fell to the share of Sirotan Das. Similarly, approximately 60 acres of land situated at Village Bharritola fell to the share of Sirotan Das. After the partition, the respective names of the parties were recorded in the revenue records, and certain properties were subsequently alienated by them. The plaintiff has no grievance in respect of the properties which fell to the share of Sirotan Das. It is further pleaded that after the death of Shatruhan Das, his wife Vishakha Bai and the mother of the plaintiff, Kumodini Bai, also expired.

9. Thereafter, defendant No. 1 submitted an application for recording the names of the legal heirs of Shatruhan Das in the revenue records before the Tehsildar, Dongargaon. The plaintiff was also present in the proceedings. However, a consent deed dated 06.09.2019 was allegedly prepared by misrepresentation and fraud, and the signatures of the plaintiff were obtained on the pretext that she was provided equal share in the aforesaid land. Subsequently, vide order dated 16.10.2019, the names of defendant Nos. 1 to 7 were recorded in the revenue records, while the name of the plaintiff was directed to be deleted from the suit property. The appeal preferred by the plaintiff against the aforesaid order was also dismissed.

10. According to the plaintiff, she is entitled to an equal share in the suit property along with defendant Nos. 1 to 7. It is further pleaded that the alleged consent/relinquishment deed, whereby her rights in the suit property were purportedly relinquished, was required to be compulsorily

registered. On the aforesaid pleadings, the plaintiff instituted the suit seeking declaration of her rights and partition of her share in the suit property.

11. Defendant Nos. 1 to 6 filed their written statement, denying the allegations made in the plaint. It was pleaded that after the death of Shatruhan Das, the names of defendant Nos. 1 to 3 and 7 were duly recorded in the revenue records. The plaintiff and defendant Nos. 4 to 6 had voluntarily agreed not to claim any share in the suit property and had executed a consent/relinquishment deed in that regard. It was further pleaded that the competent revenue authority had passed an order recording the names of defendant Nos. 1 to 3 and 7 in the revenue records, and the appeal preferred against the said order had also been dismissed. Accordingly, it was contended that the plaintiff was not entitled to any share in the suit property and the suit deserved to be dismissed.

12. The learned trial Court framed the following issues for adjudication:

> "1. Whether the plaintiff is entitled to obtain a declaration of co-ownership along with defendants No. 1 to 7 over the disputed land situated at Village Kirgi, Patwari Halka No. 05, Revenue Inspector Circle Tumdibod, Tehsil Dongargaon, District Rajnandgaon, bearing Khasra Nos. 68/1 and 72/1, admeasuring 4.7940 hectares and 0.664 hectares, respectively, comprising a total of 2 Khasra numbers with a total area of 5.458 hectares?
>
> 2. Whether the plaintiff is entitled to seek partition of the disputed land into equal shares among defendants No. 1

to 7 and to obtain separate possession of her 1/8th share therein?

3. Relief and costs of the suit?"

13. The plaintiff examined two witnesses and exhibited 11 documents in support of her case. In rebuttal, the defendants examined 03 witnesses but did not exhibit any documents.

14. Upon appreciation of the oral and documentary evidence available on record, the learned trial Court decreed the suit and granted the following relief:

> "1. The plaintiff is hereby declared to be a joint owner of the disputed property situated at Village Kirgi, comprising Khasra No. 68/1, admeasuring 4.7940 hectares, and Khasra No. 72/1, admeasuring 0.421 hectares, total 2 Khasra numbers, admeasuring 5.215 hectares, along with defendant Nos. 1 to 7.
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> 2. The plaintiff is also entitled to seek partition of the aforesaid disputed property and to obtain separate possession of her 1/8th share therein.
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> 3. The order dated 28.11.2020 passed by the Naib Tehsildar, Dongargaon, in Revenue Case No. 201911093100003/01/अ27, for the year 2019-20, being not legally valid, is not binding upon the plaintiff.
>
> 4. Both parties shall bear their respective costs of the suit."

15. Being aggrieved by the aforesaid judgment and decree, defendants preferred an appeal before the learned 1st Appellate Court, which, upon consideration of the material available on record, dismissed the appeal

and affirmed the judgment and decree passed by the learned trial Court. Hence, the present second appeal.

16. Learned counsel for the appellants submits that the findings recorded by both the Courts below are contrary to the evidence available on record and are unsustainable in law. It is contended that the plaintiff had voluntarily relinquished her rights in the suit property by executing a consent/relinquishment deed. Therefore, she is not entitled to claim any right, title or share in the suit property. It is further submitted that the plaintiff had unsuccessfully challenged the mutation proceedings before the revenue authorities and, having voluntarily waived her rights in the suit property, cannot subsequently claim partition thereof. Learned counsel, therefore, submits that the findings recorded by the Courts below are perverse and warrant interference by this Court. It is prayed that the appeal be admitted on the substantial questions of law proposed by the appellants.

17. Per contra, learned counsel appearing for respondent No. 1 and 2/plaintiff supports the impugned judgment and decree passed by the Courts below. It is submitted that there is no dispute regarding the relationship between the parties and that the plaintiff is the daughter of the sister of defendant Nos. 1 to 7. The suit property being ancestral property, the mother of the plaintiff acquired the status of a coparcener therein, and upon her death, the plaintiff, being her only daughter and legal heir, became entitled to succeed to her share in the suit property. It is further submitted that the learned trial Court, after proper appreciation of the evidence and material available on record, rightly decreed the suit, and the said findings have been duly affirmed by the learned 1st Appellate Court. Accordingly, it is contended that no interference is

warranted in the concurrent findings of fact recorded by the Courts below and the appeal deserves to be dismissed.

18. Learned counsel appearing for respondent No. 3/State submits that the dispute is essentially between private parties and the State is merely a formal party.

19. I have heard learned counsel for the parties and perused the record.

20. From the material available on record, it is not in dispute that the suit property originally belonged to Shatruhan Das Vaishnav, who was the maternal grandfather of the plaintiff. It is also not in dispute that the mother of the plaintiff, Kumudni Bai, was the sister of defendant Nos. 1 to 7. The principal controversy involved in the present appeal is whether the plaintiff, being the daughter and legal heir of Kumodini Bai, is entitled to claim a share in the ancestral property and whether her rights therein stood extinguished by virtue of the alleged consent/relinquishment deed.

21. So far as the entitlement of daughters in ancestral property is concerned, the legal position stands settled by the Hon'ble Supreme Court in ***Vinita Sharma v. Rakesh Sharma and Others, (2020) 9 SSC 1***.

22. The learned trial Court, relying upon the aforesaid judgment particularly, paragraph Nos. 69, 73, 75 and 80, recorded a categorical finding that the plaintiff is entitled to a 1/8 (as equal to shares of defendants) share in the suit property. The other contention raised by learned counsel for the appellants/defendants is that the plaintiff had executed a consent/relinquishment deed and, therefore, had waived and relinquished her rights in the suit property. The aforesaid contention cannot be accepted in the manner advanced.

23. The legal position is well settled that where a non-testamentary instrument purports or operates to create, declare, assign, limit or extinguish any right, title or interest, whether vested or contingent, in immovable property of the value of one hundred rupees and upwards, such instrument is compulsorily registrable under Section 17(1)(b) of the Registration Act, 1908. Further, in terms of Section 49 of the said Act, a document required to be registered under Section 17, but remaining unregistered, shall not affect the immovable property comprised therein or be received as evidence of any transaction affecting such property, subject to the exceptions provided therein. Please see the judgment passed by Hon'ble Supreme Court in case of ***"Yellapu Uma Maheswari and Another Vs. Buddha Jagadheeswararao and Others*** reported in ***(2015) 16 SCC 787***. In the present case, the alleged consent/relinquishment deed has not been filed to show it to be a duly registered instrument. Further, no material has been brought on record to establish that the said document merely records an antecedent oral family arrangement or any prior relinquishment of rights.

24. In view of the aforesaid discussion, this Court is of the considered opinion that the learned Trial Court has not committed any illegality or perversity in passing the judgment and decree, and the learned First Appellate Court has rightly affirmed the findings recorded by the learned Trial Court. The concurrent findings recorded by both the Courts below are based on proper appreciation of the evidence and material available on record. It is well settled that for admission of a second appeal under Section 100 of the CPC, formulation of a substantial question of law is *sine qua non*, as held by the Hon'ble Supreme Court in **Sir Chunilal V. Mehta and sons Ltd. v. Century Spinning and Manufacturing Co. Ltd.** reported in **AIR 1962 SC 1314** and in the matter of **Chandrabhan**

(Deceased) Through Lrs. & Ors. Vs. Saraswati & Ors. reported in **2022 SCC OnLine SC 1273**.

25. Thus, no substantial question of law arises for consideration in the present second appeal.

26. Accordingly, the second appeal is **dismissed**.

27. Let a decree be drawn accordingly. No order as to costs.

Sd/-
(Sachin Singh Rajput)
Judge

Abhishek