



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Revision Petition No. 229/2023

Sohan Singh S/o Shri Devisingh, Aged About 35 Years, B/c Dasana, R/o Rawalitalai, Nathela, Tehsil Garhbor, Dist. Rajsamand (Raj.)

-----Petitioner

Versus

1. Rajkidevi D/o Shri Bhanwar Singh, W/o Shri Kishan Singh, B/c Kharwad Rajput, R/o Thali Ki Bhagal Antaliya, Tehsil Garhbor, At Present R/o Jud Kivadli, Sunkhar, Tehsil Garhbor, Dist. Rajsamand.
2. Bhanwar Singh S/o Shri Lacha Singh, Aged About 80 Years, B/c Kharwad Rajput, R/o Thali Ki Bhagal Antaliya, Tehsil Garhbor, Dist. Rajsamand.
3. Rata D/o Shri Bhanwar Singh, Aged About 52 Years, W/o Shri Mangu Singh, B/c Dasana, R/o Thali Ki Bhagal Antaliya, Tehsil Garhbor, Dist. Rajsamand. At Present R/o Vanadar, Tehsil Garhbor, Dist. Rajsamand.
4. Sohan Singh S/o Shri Bhanwar Singh Kharwad, Aged About 48 Years, R/o Thali Ki Bhagal Antaliya, Tehsil Garhbor, Dist. Rajsamand.
5. Sosar D/o Shri Bhanwar Singh Kharwad, Aged About 46 Years, W/o Shri Kishan Singh Parmar, , R/o Thali Ki Bhagal Antaliya, Tehsil Garhbor, Dist. Rajsamand. At Present R/o Janawad, Tehsil Garhbor, Dist. Rajsamand.
6. Lali D/o Shri Bhanwar Singh Kharwad, Aged About 44 Years, W/o Shri Sohan Singh Dasana, R/o Thali Ki Bhagal Antaliya, Tehsil Garhbor, At Present R/o Rawali Talai, Tehsil Garhbor And Dist. Rajsamand.
7. Mangu Singh S/o Shri Bhanwar Singh Kharwad, Aged About 42 Years, R/o Thali Ki Bhagal Antaliya, Tehsil Garhbor, Dist. Rajsamand.

-----Respondents

For Petitioner(s)	:	Mr. Vikram Sharma
For Respondent(s)	:	Mr. Avin Chhangani & Mr. Avinash Bhati for Respondent No. 3 to 7

**HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA****Order****29/07/2025**

By the instant revision petition under Section 115 CPC, petitioner-defendant has assailed order dated 18.10.2023, passed by Additional Senior Civil Judge, Rajsamand (for short, 'learned trial Court') in Civil Original Case No.05/2023, whereby learned trial Court, by the order impugned, rejected application of the petitioner-defendant under Order 7 Rule 11 CPC.

2. Succinctly stated the fact of case that on 05.04.2023, the respondent no.1- plaintiff has filed a suit before Senior Civil Judge, Rajsamand for cancellation of sale deed dated 03.03.2023 as null and void and sought permanent injunction against petitioner-defendant. It was *inter alia* alleged in the plaint that the agriculture land bearing khata Nos. 278, 279, 280, 281, 282, 283 and 284 ad-measuring about 6.2594 hectare situated in village Antaliya Patwar Circle, Antaliya, Tehsil Garhbor, District Rajsamand was recorded in the name of Bhanwar Singh/respondent no.2 in revenue record is an ancestral land. The respondent no.1 further alleged that the respondent no.2 is not the sole owner of the said agriculture land as land is ancestral and she has acquired right of equal share by birth in ancestral agriculture land as per the provision of Hindu Succession Act. The respondent no.2 has sold the said agriculture land vide registered sale deed dated 03.03.2023 in favour of the petitioner-defendant no.1 and when this fact came to her knowledge, she preferred a suit before the



Senior Civil Judge, Rajsamanad against the petitioner-defendant no.1 and other respondents (defendants).

3. The defendant filed an application under Order VII Rule 11 CPC inter alia with the submissions that as the subject matter of the said deed, of which cancellation is being sought, is an agricultural land, as such the suit is barred under Section 207 of the Rajasthan Tenancy Act, 1955 and prayed for its dismissal.

4. The trial court after hearing the parties, by its impugned order dated 18.10.2023 rejected the application of the defendant. Being dissatisfied with the order impugned, the petitioner defendant has moved the instant revision petition.

5. Learned counsel for the petitioner-defendant while assailing the impugned order dated 18.10.2023 contended that the respondent-plaintiff instituted the suit seeking cancellation of a registered sale deed dated 03.03.2023 as null and void on the premise that the suit land is agricultural land and jurisdiction to adjudicate the dispute pertaining to agricultural land vests exclusively with the Revenue Court. It is further submitted that as per Section 207 of the Rajasthan Tenancy Act, 1955, the Revenue Court possesses the requisite jurisdiction to hear and determine disputes concerning agricultural land. Reliance was placed on judgment in the case of ***Pyarelal v. Shubendra Pilania : (2019) 3 SCC 692.***

6. Per contra, learned counsel for the respondent-plaintiff contended that the learned trial Court rightly dismissed the application preferred by the petitioner-defendant under Order VII Rule 11 of the Code of Civil Procedure. It is submitted that as the



sole relief sought in the suit pertained to the cancellation of the sale deed and a declaration of its nullity, the jurisdiction for such cancellation exclusively rests with the Civil Court. Thus, it is prayed that the instant revision petition merits dismissal. In support of his contention, learned counsel for the respondent has placed reliance upon a judgment of this Court in the case of

Balkesh Vs. Vimla & Ors. decided on 27.05.2024 in S.B. Civil Revision Petition No.186/2015.

7. Heard learned counsel for the parties and perused the material available on record.

8. The trial court vide order impugned dated 18.10.2023 rejected the application of the defendant solely on the premise that the relief sought by the plaintiff falls under the jurisdiction of the civil court as the jurisdiction to declare any document illegal and void is only and only with the civil court.

9. Thus, the only issue which arises for consideration in the present case is that whether the civil court has the jurisdiction to decide the suit pertaining to agricultural land in light of provisions of Section 207 of the Rajasthan Tenancy Act, 1955?

10. As per the averments made in the plaint, the instrument is a voidable document which is sought to be declared as null and void. In deciding an application under Order 7, Rule 11 CPC, only the averments contained in the plaint are to be considered. In ***Maniram vs Mamkori*** reported in 2021(2) DNJ (Raj.) 610, this Court held as under:-

“10.The said nature averments and the implication of such averments have been considered by this Court in



the case of Hasti Cement (supra), wherein it was laid down as under:-

21. From what has been noticed hereinbefore, it can be safely concluded that if the allegation in the plaint/substance of the allegations in the plaint allege the instrument to be void and no cancellation is required and without seeking such cancellation the relief of declaration pertaining to tenancy rights with regard to the agricultural land in question can be obtained by the plaintiff, only the revenue courts would have jurisdiction to deal with the subject matter of the suit and consequently the jurisdiction of civil courts would be barred. However, if the allegations made in the plaint make out a case of document being voidable, relief of cancellation of such a voidable document can only be granted by civil court and irrespective of the fact that the instrument pertains to agricultural land, the suit would not be barred under Section 207 of the Tenancy Act. Therefore, the trial court in each case, where a issue in this regard is raised, based on the stage of the suit i.e. either based on the plaint averments or the evidence available on record would have to come to a conclusion as to whether the facts as alleged, if established or as established in a case where evidence has been led makes the instrument void or voidable and decide accordingly."

It was further laid down in relation to a case where the challenge laid to the transfer was on account of the fact that the land in question was joint family property and that the transfer was made beyond the share of the transferor, it was further laid down as under:-

"25. In view of the above discussion, the present case needs to be examined wherein, as noticed hereinbefore, the declaration has been sought in the plaint seeking cancellation of sale deed to the extent of share of the plaintiff on account of the fact that the suit property being ancestral joint Hindu property the transfer was made without any reason, basis or necessity.

26. On the said aspect, while the judgment in the case of Sangram Singh (supra) laid down that such a sale would be void and, therefore, the suit would be triable by revenue court only, in later judgment in the case of Bhopal Singh (supra) it was laid down that such a sale would be voidable and not void. For the said proposition, reliance was placed on the judgment of Hon'ble Supreme



Court in the case of Raghubanchmani (supra) and a unreported judgment in the case of Longram vs. Jaipal Singh : Civil Revision Petition No.153/1971 decided on 29/7/1971, taking different view was held as not a good law in view of the Supreme Court judgment, for the same reasons the judgment in the case of Sangram Singh (supra) also cannot be said to be a good law though the judgment in the case of Sangram Singh was not cited in the case of Bhopal Singh (supra). Relevant portion of the judgment dealing with the said aspect reads as under:

"13. In view of the decision in Raghubanchamani's case AIR 1971 SC 776, the sale-deed made by the plaintiff's father, who is defendant No. 5, in favour of the defendants Nos. 1 and 4 (petitioners) is voidable as according to the plaintiff it was without legal necessity and under Section 31(1) of the Specific Relief Act, when the plaintiff has reasonable apprehension that the sale-deed if left outstanding, may cause him serious injury, it became necessary for him to have it adjudged, (5 of 5) [CR-72/2019] void or voidable. The cancellation of the saledeed, being the main relief in the suit, can only be granted by a Civil Court. Learned counsel for the petitioners cannot, in my opinion, derive any benefit from the decision in Jagansingh's case 1973 Raj LW 674. In Longram's case Civil Revn. No. 153 of 1971, D/- 29-7-1971 Raj) (supra) the learned Judge took the view that the sale by the father of undivided coparcenary property is void in the absence of the legal necessity and the prayer for cancellation of the sale-deed is not very material, and further that the suit was essentially for possession of agricultural land. The sale by the father of the plaintiff in the case before me is voidable according to the decision in Raghubanchamani's case AIR 1971 SC 776. I regret my inability to agree with the view taken in Longram's case and it is no more a good law after Raghubanchamani's case."

27. In view of the above, the law laid down in the case of Bhopal Singh (supra) holding the instrument of the present nature as voidable, suit apparently is maintainable before the civil court and in view thereof the order passed by the trial court cannot be faulted."

11. Further, this Court while relying on the judgment in the case of Hasti Cement (supra) rejected an application under Order VII Rule 11 CPC in the case of **Hemant Godara & Anr. Vs. Banwarilal & Ors. (SB Civil First Appeal No.180/2016) decided on 10.09.2020** observing that, in case, the allegations made in the plaint make out a case of the transfer being voidable,



only the civil courts would have jurisdiction, irrespective of the fact that the subject-matter of the transfer is an agricultural land. In view thereof, as apparently the issue as raised in the plaint pertains to the sale deed being voidable, the civil court had jurisdiction to try the said suit and the bar created by Section 207 of the Act of 1955, had no application.

12. Upon a comprehensive examination of the precedents cited hereinabove and a meticulous appraisal of the legal position, it may be conclusively articulated that the civil court is vested with the requisite jurisdiction to entertain and adjudicate disputes pertaining to the cancellation of a sale deed that is voidable in nature. Thus, this court is of considered opinion that learned Court below has not committed any jurisdictional error in rejecting the application of the petitioner-defendant under Order VII Rule 11 CPC. The impugned order has neither occasioned in any failure of justice, nor there is any material irregularity in exercise of jurisdiction by learned trial Court.

13. Accordingly, the revision petition fails and the same is hereby rejected. Stay petition also stands disposed of.

(CHANDRA SHEKHAR SHARMA),J

131-T.Singh/-