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CR-1021-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 6th OF OCTOBER, 2026CIVIL REVISION No. 1021 of 2026

CNR No.: MPHC010658272026

*RAJENDRA JAIN**Versus**JITENDRA KURMI AND OTHERS*

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Appearance:

Mr. Akash Singhai - Advocate for petitioner.
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ORDER

The present petition under Section 115 of the Code of Civil Procedure, 1908, has been preferred by the petitioner/defendants assailing the order dated 17.06.2026 passed by the learned Civil Judge, Junior Division, Patharia, District-Damoh (M.P.), in RCSA No.26/2025, whereby the application preferred by the petitioner/defendant under Order VII Rule 11 CPC was dismissed by the learned trial Court.

2. The brief facts of the case are that the dispute pertains to land bearing Khasra No.38/1, area 0.13 hectare, situated at Village Rajwas, District Damoh in respect of which the petitioner had obtained correction of revenue entries under Section 115 of the The Madhya Pradesh Land Revenue Code, 1959 (hereinafter referred to as the "MPLRC") vide order dated 10.03.2023. The said order was affirmed by the Collector, Damoh vide order dated 03.05.2023 and thereafter by the Additional Commissioner, Sagar



Division vide order dated 30.10.2025. Despite availing the statutory remedies, Respondent nos.1 and 2 instituted the aforesaid civil suit seeking, in substance, to challenge and nullify the orders passed by the competent Revenue Authorities. The petitioner, therefore, invoked Order VII Rule 11 CPC, contending that the suit was expressly barred by Section 257(f) of MPLRC. The learned Trial Court, however, declined to reject the plaint, compelling the petitioner to invoke the revisional jurisdiction.

3. It is submitted by learned counsel for the petitioner that the suit has been instituted by the respondents/plaintiffs seeking a declaration that the orders passed by the competent Revenue Authorities under the provisions of the MPLRC are null and void and not binding upon them, along with a prayer for permanent injunction restraining the petitioner/defendant from interfering with their alleged ownership and possession over the houses admeasuring 2,400 sq. ft. constructed over Survey No.38/4/2 and 1,200 sq. ft. constructed over Survey No.38/4/1, respectively, situated at Village Rajwas, District Damoh. It is further submitted that the jurisdiction of the Civil Court is expressly barred under Section 257(f) of the MPLRC, particularly when the orders passed by the competent Revenue Authorities have attained finality, the respondent/plaintiffs having failed to avail the further statutory remedies available before the higher Revenue Authorities or the Board under the scheme of the Code. It is also submitted that the respondents/plaintiffs were duly afforded an opportunity of hearing in the proceedings relating to correction of the revenue entries and the map under Section 115 of MPLRC. Having participated in the said proceedings and failed to challenge the orders



in accordance with the statutory hierarchy, the respondent/plaintiffs cannot be permitted to reopen the concluded proceedings by instituting a civil suit. Consequently, the suit is not maintainable and the plaint deserves to be rejected under Order VII Rule 11 of the CPC.

4. To bolster his submission, learned counsel for the petitioner has placed reliance upon the order passed by the Co-ordinate Bench of this Court in *Miscellaneous Appeal No.1495 of 2010, Smt. Shahida Parveen and Others Vs. Shri Laxmi Narain Induria and Others*, decided on 25.09.2025.

5. Heard learned counsel for the petitioner and perused the record.

6. For the purpose of deciding the application under Order VII Rule 11 of the CPC, the averments made in the plaint are germane, as has been held by the Hon'ble Apex Court in *Chhotanben vs. Kirtbhai Jalkrushnabhai Thakkar, (2018) 6 SCC 422*.

"15. What is relevant for answering the matter in issue in the context of the application under Order 7 Rule 11(d) CPC, is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis to decide the application under Order 7 Rule 11(d). Only the averments in the plaint are germane. It is common ground that the registered sale deed is dated 18-10-1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellant-plaintiffs is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers, original Defendants 1 and 2, in favour of Jaikrishnabhai Prabhudas Thakkar or Defendants 3 to 6. They acquired that knowledge on 26-12-2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original Defendants 1 and 2) calling



upon them to stop interfering with their possession and to partition the property and provide exclusive possession of half (½) portion of the land so designated towards their share. However, when they realised that the original Defendants 1 and 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the trial court opined that it was a triable issue and declined to accept the application filed by Respondent 1-Defendant 5 for rejection of the plaint under Order 7 Rule 11(d). That view commends to us."

7. From bare perusal of the pleadings contained in the plaint, this Court finds that the suit has been instituted seeking the relief of declaration and permanent injunction in respect of the houses of the respondents/plaintiffs constructed over Survey Nos.38/4/2 and 38/4/1.

8. It is the case of the respondents/plaintiffs that the orders passed under Section 115 of the MPLRC are illegal and unsustainable, as the Revenue Authority, without properly considering the material available on record, directed deletion of their names from the revenue record. It is further contended that although the said order was assailed before the appellate authorities under the Code, the same came to be affirmed. According to the respondents/plaintiffs, the order passed by the Revenue Authority was rendered behind their back, without affording them an opportunity of hearing, and, therefore, is not binding upon them and is a nullity in the eyes of law. It is further pleaded that the cause of action for instituting the suit arose upon dismissal of their appeals by the competent appellate authorities.

9. The case of the petitioner is that once an order has been passed by the competent Revenue Authority under Section 115 of the MPLRC, the



same cannot be assailed before the Civil Court in view of the statutory bar contained in Section 257(f) of MPLRC. Upon perusal of the said provision, it is evident that a suit involving a claim against the State, in respect of matters falling within the scope of the Revenue Authorities, is barred by the express provisions of Section 257 of MPLRC. However, from perusal of the averments contained in the plaint, this Court finds that no claim has been made by the respondents/plaintiffs against the State.

10. The other contention as to whether the respondents/plaintiffs were afforded an opportunity of hearing while deciding the application under Section 115 of MPLRC is essentially a question of fact and procedure, which would require proper appreciation of evidence. Such a question can appropriately be adjudicated by the Civil Court after the parties are afforded an opportunity to lead evidence and, therefore, cannot furnish a ground for rejection of the plaint under Order VII Rule 11 of the CPC.

11. So far as the cause of action pleaded by the respondents/plaintiffs is concerned, their specific case is that the orders directing deletion of their names from the revenue record were passed behind their back and without affording them an opportunity of hearing. Such a plea, on the face of the plaint, discloses a cause of action in favour of the respondents/plaintiffs and, therefore, cannot be discarded at the threshold while considering an application under Order VII Rule 11 of the CPC.

12. The case law relied upon by the learned counsel for the petitioner pertains to a different aspect of Section 250 of the MPLRC, wherein this Court has held that, where an efficacious remedy is available under the



provisions of the Code, a civil suit is ordinarily not maintainable. However, the issue involved in the present case is governed by the specific statutory bar contemplated under Section 257 of the Code. Upon a careful perusal of the provisions of Section 257 of the Code, this Court finds that the present suit is not barred by the said provision. The Full Bench of this Court, in *Ramgopal Kanhaiyalal Vs. Chetu Batte*, AIR 1976 MP 160, while considering the scope and ambit of the jurisdiction of the Civil Court *vis-à-vis* the provisions of the MPLRC, has held as under:-

“1. The questions referred to this Full Bench are whether the Civil Court cannot take cognizance of a suit instituted by Bhumiswami on the basis of his title, against a trespasser; and whether the decision in Nathu v. Dilbande Hussain, AIR 1967 Madh Pra 14, is no longer good law.

2. Chetu brought the suit against Ramgopal on the averment that he is the Bhumiswami of survey No. 138/3 (area 5 Biahas 9 Biswas) of village Kulhar, Tahsil Basoda. On or about July 15, 1963, the defendant wrongfully took possession of the suit land.....

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6. The above dictum may be analysed thus:—

(1) Section 250 (2) confers jurisdiction on the Tahsildar to decide a Bhumiswami's application for restoration of possession.

(2) The Tahsildar has to make an enquiry into the respective claims of the parties.



(3) The enquiry, which is contemplated, is of a summary nature.

(4) The Tahsildar has to decide whether the person complaining of dispossession is or is not a Bhumiswami and whether he has been dispossessed or there has been unauthorised and illegal continuance of possession by the person complained against

(5) But both the questions, (a) as regards title of the Bhumiswami, and (b) of possession, are not finally decided by the Tahsildar. The party aggrieved by an order under Section 250 has a remedy to file a civil suit for establishing his title to the land and for obtaining possession of the same.

(6) Section 257(x) of the Code does not bar such a civil suit, i.e. a suit for possession of land founded on title. It is only a suit of the type of one under Section 9 of the Specific Relief Act for restoration of possession of land, which is barred by Section 257(x) of the Code.

(7) The decision of the Revenue Court will not operate as res judicata in such a civil suit.

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15. Under the general law, a suit for possession based on title can be instituted in the Civil Court within 12 years from the date of dispossession. The principle that possession must follow title has received greater weight and sanctity when the distinction



between the scope and effect of Article 142 and those of Article 144 of the Limitation Act, 1908, has been watered down and simpler provisions have been substituted in Articles 64 and 65 of the Limitation Act of 1963. It will be anomalous to read Section 250 as providing for a suit for possession based on title, which is to be instituted within two years only. It will entail a fantastic result that if a suit is not brought within two years under Section 250, the Bhumiswami's right will be extinguished, because, by virtue of Section 26 of the Limitation Act, if a suit for possession is not instituted within the period of limitation prescribed then not only the remedy is barred but right is also extinguished. Section 26 is an exception to the general rule that limitation bars the remedy but does not extinguish the right.

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17. We, therefore, hold that a Bhumiswami is not bound to avail himself of the speedy remedy provided in Section 250 of the Code. It is open to him to take recourse to the summary remedy under Section 250, or even without it straightway bring a suit in the Civil Court for declaration of his title and possession. Even if there has been a decision under Section 250 by a revenue Court, the party aggrieved may institute a civil suit to establish his title to the disputed land. We further hold that Nathu v. Dilbande Hussain, AIR 1967Madh Pra 14 : 1964 Jab LJ 707 was correctly decided. The Civil Court can take cognizance of a suit. This is our answer



to the questions referred to us.”

13. In view of the aforesaid enunciation of law, this Court is of the considered opinion that, in the absence of an express statutory bar under Section 257 of the MPLRC, a civil suit is not barred merely because the subject matter has earlier been considered by the Revenue Authority. The decision rendered by the Revenue Authority does not, by itself, operate as *res judicata* in a subsequent civil suit, particularly where the suit involves adjudication of civil rights. The jurisdiction of the Civil Court is governed by Section 9 of the CPC, which confers jurisdiction upon the Civil Court to try all suits of a civil nature, except those whose cognizance is expressly or impliedly barred by law.

14. Therefore, in view of the above enunciation of law and the factual analysis of the case, this Court does not find any merit in the submissions *put forth* by learned counsel for the petitioner. The impugned order dated 17.06.2026 passed by the learned Court below does not suffer from any illegality, material irregularity or jurisdictional error warranting interference by this Court in exercise of its revisional jurisdiction under Section 115 of the CPC. Accordingly, no ground is made out for interference with the impugned order.

15. Accordingly, the petition sans merits and is hereby dismissed.

(DEEPAK KHOT)
JUDGE

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