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## **HIGH COURT OF CHHATTISGARH AT BILASPUR**

**S.A. NO. 178/2011**

**APPELLANT/  
PLAINTIFF**

Kali Bai, W/o Ramanuj Lodhi, aged about 58 years, R/o Village Singhanpuri, Post Gochhiya, Tahsil Kawardha, Distt. Kabirdham (C.G.).

**VERSUS**

**RESPONDENTS**

1. Sonarin Bai, Wd/o Ramgujar Lodhi, aged about 72 years.
  - (a) Faguram, S/o Late Ramgujar Lodhi, aged about 55 years.
  - (c) Manohar S/o Late Ramgujar Lodhi, aged about 51 years.
  - (d) Munna S/o Late Ramgujar Lodhi, aged about 48 years,  
All residents of Village Singhanpuri, Post Gochhiya, Tahsil Kawardha, Distt. Kabirdham (C.G.).
2. Janak S/o Pyare Lodhi, aged about 32 years, R/o Village Talpur, Post Udiya, Tahsil Kawardha, Dist. Kabirdham.
3. Radha Bai, W/o Paras Lodhi, aged about 72 years R/o Village Kumhar Daniya, Post Charbhatha, Tahsil Kawardha, Dist. Kabirdham
4. Geeta Bai, W/o Kangla Lodhi, aged about 52 years, R/o Village & Post Charbhatha, Tahsil Kawardha Distt. Kabirdham (C.G.).
5. Janki Bai, S/o Mathura Lodhi, aged about 44 years. R/o Village Bhedali, Tahsil Kawardha Dis. Kabirdham.
6. Bahal, S/o Rampahru Lodhi, aged
  - (a) about 64 years.
  - (b) Sishu Pal, S/o Rampaharu Lodhi, aged about 59 years.
  - (c) Kripa, S/o Rampaharu Lodhi, aged about 57 years, R/o Village Talpur,



- Post Udiya, Tahsil Kawardha, Dist. Kabirdham.
- (d) Kumari Bai, W/o Banshi Lodhi, aged about 47 years, R/o Village Bhathkudera, P.S. Sahashpur Lohara, Tahsil Kawardha Dist. Kabirdham.
7. Kashiram, S/o Patiram Lodhi, aged about 29 years.
8. Neera Bai, Wd/o Maniram Lodhi, aged about 34 years, R/o Village Talpur, Post Udiya, Tahsil Kawardha, Dist. Kabirdham.
9. Kamlesh S/o Maniram Lodhi, aged about 14 years, minor, through natural guardian mother Neera Bai, Wd/o Mani Ram.
10. Vinod, S/o Maniram Lodhi, aged about 8 years, minor, through natural guardian mother Neerama Bai, Wd/o Maniram.
11. Lalit, S/o Maniram Lodhi, aged about 6 years, minor, through natural guardian mother Neera Bai, Wd/o Maniram, No. 9 to 11 R/o Village Talpur, Post Udiya, Tahsil Kawardha, Distt. Kabirdham (C.G.).
12. Bhadu S/o Sundar Singh Lodhi, aged about 32 years, R/o Village Singhanpuri, Post Gochhiya, Tahsil Kawardha.
13. Vitawan W/o Kejuram Lodhi, aged about 62 years, R/o Villaage Dargiwa, Tahsil Kawardha.
14. Rama, W/o Kejau Lodhi, aged about 45 years, R/o Village Jhironi, Tahsil Kawardha.
15. Jethiya W/o Dani Lodhi, aged about 27 years, R/o Village & post Jinda,

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Tahsil Kawardha.

16. Triveni, W/o Ramphal Lodhi, aged about 27 year, R/o Village Bhatkudera, Tahsil Kawardha.
17. Raimun Bai, W/o Parsadar Lodhi, aged about 64 years, R/o Village & Post Gochhiya, Tahsil Kawardha.
18. Gaitri Bai, W/o Mehataru Lodhi, aged about 59 years, R/o Bhatkudera, Tahsil Kawardha.
19. Sonu, S/o Kanhaiya Lodhi, aged  
(a) about 40 years, R/o Kuteli.  
(b) Makhan, S/o Kanhaiya Lodhi, aged about 36 years, R/o Kuteli  
(c) Divyaram, S/o Kanhaiya Lodhi, aged about 33 years, R/o Kuteli.  
(d) Gulaba Bai, Wd/o Pardeshi, aged about 30 years, R/o Jinda, All Tahsil Kawardha, Distt.-Kabirdham (C.G.)
20. Hirmat Bai, Wd/o Patiram Lodhi, aged about 62 years, R/o Talpur, Post Udiya, Tahsil Kawardha.
21. State of Chhattisgarh Through - The Collector, Kabirdham (C.G.).

**APPEAL UNDER SECTION 100 OF CODE OF CIVIL PROCEDURE, 1908.**  
**(SB :Hon'ble Mr. T.P.Sharma, J.)**

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Present:- Shri Ajit Singh, Advocate for the appellant.  
Shri Dashrath Prajapati, Advocate for the respondents No. 1 to 20.  
Shri Sanjeev Kumar Agrawal, P.L. for the State/respondent No. 21.

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**ORAL- JUDGEMENT**  
**(Passed on 29/07/2011)**

1. By this second appeal under Section 100 of the Code of Civil Procedure, 1908 ( in short 'the Code') appellant has challenged the legality and propriety of the judgment and decree dated 5/2/2011 passed by District Judge, Kabirdham (Kawardha) C.G. in civil appeal No. 39A/2008 dismissing the appeal against the judgment and decree of dismissal of

suit dated 4/8/08 passed by Civil Judge Class-II, Camp Kawardha in civil suit No. 93A/2006 whereby claim of appellant/plaintiff has been denied on the ground that appellant has failed to establish her claim and suit was also time barred, same has been affirmed by the appellate Court.

2. Shri Ajit Singh, Advocate for the appellant, Shri Dashrath Prajapati, Advocate for the respondents No. 1 to 20 and Shri Sanjeev Kumar Agrawal, P.L. for the State/respondent No. 21 are heard.
3. Learned counsel for the appellant submits that present appellant was member of Joint Hindu Family property and she become entitled to claim partition after amendment in the Hindu Succession Act vide Amendment Act of 2005. Present appellant has filed suit for partition and possession against respondents who are heirs of brother of grandfather of appellant Kali Bai. Present appellant is granddaughter of brother of successor predecessor entitled of her grandfather and not be treated as member of Joint Hindu Family. Present appellant/plaintiff has cleverly adopted in filing the plaint in which she has especially hidden the death of her father and grandfather of plea relating to limitation but she has admitted in her statement that name of respondents have been mutated in the Revenue record when her age was 15-16 years and their relation were strained with respondents. It was the duty of appellant/plaintiff to state true facts but in stead of pleading true facts she has cleverly hidden the aforesaid facts which she specifically deposed in her evidence, I do not find any illegality in concurrent finding of both the Courts below and any substantial question of law for decision of this second appeal. Consequently, second appeal is liable to be dismissed and is hereby dismissed.

No order as to costs.

Sd/-  
T.P. Sharma  
Judge

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