

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

S.B. Civil Writ Petition No. 2446/2026

Jakir Hussain Khan S/o Late Nawab Khan, Aged About 43 Years,
Resident Of Ward No. 29, Behind Manoranjan Club, Churu
(Rajasthan).

-----Petitioner

Versus

1. Sabir S/o Shri Jyan Mohammad, Resident Of Near Jakirya Mosque, Ward Sebhanukha-3, Sardarshahar Tehsil Sardarshahar District Churu
2. Smt. Jumiya W/o Shri Mohammad Sayyed, Resident Near Sikka Masjid, Ward No. 40, Sardarshahar Tehsil Sardarshahar District Churu.

-----Respondents

For Petitioner(s)	:	Mr. Tanwar Singh Rathore. Mr. Gulab Singh. Mr. SP Singh. Mr. Gajendra Singh.
For Respondent(s)	:	M. Harshvardhan Singh.

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

24/02/2026

1. The instant petition has been filed by the petitioner challenging the order dated 09.01.2026 passed by the learned District Judge, Churu, whereby the application of the petitioner for summoning the attesting witness (notary who attested the sale agreement) was rejected.
2. Learned counsel for the petitioner submits that the suit filed by the petitioner/plaintiff pertains to the specific performance of the agreement dated 13.05.2023. During the pendency of the suit, the petitioner filed an application on 09.01.2026 praying that

the Notary who attested the sale agreement be summoned as a witness on behalf of the petitioner.

3. It is submitted that earlier, vide order dated 29.11.2025, the application submitted by the petitioner under Order 18 Rule 3-A read with Section 114/151 of CPC was rejected. Against the same, the petitioner preferred a writ petition bearing S.B. Civil Writ Petition No.24315/2025, which was disposed of by this Court vide order dated 15.12.2025. The relevant portion of that order reads as follows:

“8. In the instant case, looking to the negligent act and behaviour of the petitioner, the Trial Court has not committed any error; as the petitioner has failed to avail several opportunities granted by the Trial Court and has further failed to record his evidence by appearing in the witness box. But looking to the fact that the important question of right, title and interest of the petitioner are involved in the suit filed by him, unless and until his evidence is recorded before the Trial Court, he would not be in a position to prove his case. Hence, in the interest of justice, one last and final opportunity is granted to the petitioner subject to following conditions:-

(I) The petitioner would pay a sum of Rs.20,000/- to the respondents within a period of 15 days from today.

(II) The petitioner would plant 25 shady plants in his vicinity in public area. The aforesaid process would be carried over

by him within a period of two weeks from today and he is further directed to look after these plants.

(III) The petitioner would submit the photographs of these plants before the Trial Court to show that the condition No.II imposed by this Court has been duly complied with by him.”

4. It is further submitted that the liberty was granted to the petitioner to produce evidence and in pursuance of the same, two witnesses were examined. Learned counsel for the petitioner further submits that during the examination of these two witnesses, it was observed that the other attesting witness required to be summoned was the Notary Public who notarized the agreement in question. The petitioner filed another application for

summoning the Notary public on 09.01.2026, which was rejected by the learned Trial Court vide order dated 09.01.2026.

5. Learned counsel for the respondents submits that the petitioner has already availed an opportunity to examine witnesses in pursuance to the order dated 15.12.2025 passed by this Court. It is contended that filing another application after examination of the earlier witnesses is only intended to delay the proceedings, which is not permissible under law.

6. After hearing learned counsel for the parties and perusing the record, this Court finds that the petitioner has already been granted opportunity to produce his evidence, which he duly availed. It was open for the petitioner to produce all his witness pursuant to the liberty granted by this Court. Therefore, in the opinion of this Court, no illegality or perversity is found in the order dated 09.01.2026 passed by the learned Trial Court.

7. Accordingly, the instant writ petition is dismissed.

8. Stay application as well as pending applications, if any, are also disposed of.

(MUKESH RAJPUROHIT),J