

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

S.B. Civil Writ Petition No. 2790/2026

Surtan Khan S/o Lal Khan, Aged About 68 Years, Resident Of
Daya Kour, Masjid Ki Dhani, Tehsil Lohawat, District Phalodi,
Rajasthan.

-----Petitioner

Versus

1. Tehsildar Lohawat, Tehsil Lohawat, District Phalodi.
2. Ahmed Khan S/o Sher Khan, Resident Of Daya Kour,
Masjid Ki Dhani, Tehsil Lohawat, District Phalodi,
Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Moti Singh

For Respondent(s) :

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

09/02/2026

1. Learned counsel for the petitioner submits that the petitioner instituted a suit against the respondent seeking a decree of permanent injunction restraining the respondent from interfering with the petitioner's peaceful use and occupation of the land/property in dispute, which had been allotted to the petitioner and Sanad dated 22.02.1991 was issued by the Tehsildar, Phalodi. It is further submitted that during the pendency of the suit, the petitioner filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking grant of temporary injunction. During pendency of said application, interim temporary injunction was granted by the learned trial court vide order dated 06.10.2025.

Additionally, it is submitted that prior to passing the interim order, the learned trial court called for a survey report, which was submitted by the Commissioner. In the said report, it was recorded that the petitioner is in possession and occupation of the land/property in dispute, and that the petitioner's land was demarcated and marked by points E-I-F. Subsequently, the respondent filed a reply to the petitioner's application, raising an objection to the maintainability of the suit and asserting that the land in question is pasture/government land.

The learned trial court, however, erroneously rejected the application filed under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure on the observation that the land in question was not earmarked in the Sanad issued in favour of the petitioner and that the same was not recorded in the petitioner's name. It is further submitted that the said material fact regarding the location and identification of the petitioner's land has also not been duly considered by the learned appellate court.

2. The matter requires consideration.
3. Issue notice to respondent(s), returnable within six weeks.
4. In the meanwhile and till the next date of hearing, the parties are directed to maintain status quo with regard to possession of the property / land in question as it exists today and marked by the Survey Commissioner.
5. List after eight weeks.

(MUKESH RAJPUROHIT),J