

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

S.B. Civil Writ Petition No. 3807/2026

Archana Rathee W/o Bhagwan Mundara D/o Purushottam Rathi,
Aged About 25 Years, R/o Ratanada Bazar, Police Station Ke
Samane, Jodhpur, Raj.

-----Petitioner

Versus

1. Bhagwan Moondara S/o Shri Radheshyam Moondara, R/o Khinvsar Kothi, Gali No. 1, Ramnagar, Badle Ke Pass, Tisri Pole Ke Bahar, Mahamandir, Jodhpur, Raj.
2. Radheshyam Moondara S/o Late Shri Balkishan Moondara, R/o Khinvsar Kothi, Gali No. 1, Ramnagar, Badle Ke Pass, Tisri Pole Ke Bahar, Mahamandir, Jodhpur, Raj.
3. Ramkishor Moondara S/o Late Shri Balkishan Moondara, R/o Khinvsar Kothi, Gali No. 1, Ramnagar, Badle Ke Pass, Tisri Pole Ke Bahar, Mahamandir, Jodhpur, Raj.
4. Sushila Moondara W/o Late Shri Balkishan Moondara, R/o Khinvsar Kothi, Gali No. 1, Ramnagar, Badle Ke Pass, Tisri Pole Ke Bahar, Mahamandir, Jodhpur, Raj.

-----Respondents

For Petitioner(s)	:	Mr. Suresh Khadav
For Respondent(s)	:	Mr. Deen Dayal Chitlangi

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

24/03/2026

The present writ petition has been preferred by the petitioner assailing the impugned order dated 08.12.2025 passed by the learned Civil Judge, Jodhpur Metropolitan in Civil Original Suit No.62/2022, whereby the application filed by the respondents-defendants under Section 11 of the Rajasthan Court Fees and Suit Valuation Act, 1961 has been allowed.

Learned counsel for the petitioner submits that the petitioner has instituted a suit for declaration and injunction seeking execution of a gift deed in his favour. During the pendency of the suit, the respondent had earlier filed an application under Order VII Rule 11 CPC, which came to be dismissed by the learned Trial Court after due consideration of the contentions raised therein. It is contended that the respondents have thereafter filed another application under Section 11 of the Act of 1961 merely to delay the proceedings.

It is further submitted that the said application was not maintainable, inasmuch as Section 24 of the Act of 1961 is not applicable to the present dispute, and the case would instead fall under Section 7(4)(c) of the Court Fees Act. Learned counsel submits that the learned Trial Court has erred in allowing the application and, therefore, the impugned order deserves to be quashed and set aside.

Per contra, learned counsel for the respondent submits that a perusal of the plaint clearly indicates that the petitioner has, in substance, sought declaratory relief. Learned counsel brought attention of this Court to the prayer clause of the plaint, which reads as under:

" (क) यह है कि वादी के पक्ष में व प्रतिवादीगण के विरुद्ध इस आशय की स्थाई निषेधाज्ञा की डिक्री जारी की जावे कि वे उक्त वादग्रस्त जायदाद को न तो किसी अन्य व्यक्ति को किराये पर देवे न किसी को बेचान या हस्तान्तरण करें, और न ही अपने अन्य व्यक्ति, एजेंट या अधिकृत व्यक्ति के मार्फत किसी भी प्रकार का सारभूत परिवर्तन ही करे।

(ख) यह है कि वादी के पक्ष में व प्रतिवादीगण के विरुद्ध इस आशय की घोषणात्मक आज्ञा पारित की जावे कि वे वादग्रस्त जायदाद का मालिक वादी की घोषित करते हुए वादग्रस्त जायदाद की गिफ्ट डीड नियमानुसार वादी के पक्ष में बनाकर उसे रजिस्टर्ड करवाने का आदेश फरमावे।

(ग) यह है कि खर्चा मुकदमा वादी को प्रतिवादीगण से दिलवाया जाने का आदेश फरमावे।

(घ) यह है कि अन्य कोई अनुतोष जो वादी के हक में विरुद्ध प्रतिवादीगण हो दिलवाई जावे।

अतः वादी की ओर से वाद पेश कर निवेदन है कि वादी की वाद विशेष हर्जे खर्चे के स्वीकार फरमाया जावे।"

Learned counsel submits that, particularly in prayer clause (ख), the petitioner has sought a declaration of rights with respect to the disputed property. It is further contended that the document on the basis of which relief has been claimed is forged, and an FIR was registered in that regard. After investigation, the investigating agency has filed its conclusion indicating commission of offence against the petitioner and her family members, and it is also alleged that the petitioner was absconding during the course of investigation. These aspects, it is submitted, were brought before the learned Trial Court while arguing the application under Order VII Rule 11 CPC, though the same came to be rejected.

It is further submitted that the issue of deficient court fee was not raised earlier in the application under Order VII Rule 11 CPC; however, the same can be independently agitated. Learned counsel contends that since the suit is essentially one for declaration with consequential relief in respect of immovable property, the provisions of Section 24(b) of the Rajasthan Court Fees and Suit Valuation Act, 1961 are clearly attracted. Thus, the learned Trial Court has rightly allowed the application filed by the respondent.

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

For ready reference, Section 24 of the Rajasthan Court Fees and Suit Valuation Act, 1961 reads as under:

"24. Suits for declaration.- In a suit for a declaratory decree or order, whether with or without consequential relief, not falling under section 25:-

(a) where the prayer is for a declaration and for possession of the property to which the declaration relates, fee shall be computed on the market value of the property, subject to a minimum fee of twenty rupees;

(b) where the prayer is for a declaration and for consequential injunction and the relief sought is with reference to any immovable property, fee shall be computed on one-half of the market value of the property, subject to a minimum fee of twenty rupees;

(c) where the prayer relates to the plaintiffs exclusive right to use, sell, print or exhibit any mark, name, book, picture, design or other thing and is based on an infringement of such exclusive right, fee shall be computed on the amount at which the relief sought is valued In the plaint subject to a minimum fee of forty rupees;

(d) where the prayer is for a declaration with reference to any property and no consequential relief is prayed for, fee shall be computed on the market value of the property, subject to a minimum fee of twenty rupees;

(e) in other cases whether the subject-matter of the suit is capable of valuation or not, fee shall be computed on the amount at which the relief sought is valued in the plaint, subject to a minimum fee of twenty-five rupees."

A bare perusal of the aforesaid provision, particularly clause (b) of Section 24, makes it evident that where a suit seeks declaratory relief along with consequential injunction in respect of immovable property, the court fee is required to be computed on one-half of the market value of the property.

In the present case, upon consideration of the averments made in the plaint and the reliefs claimed therein, it is apparent that the suit filed by the petitioner is, in substance, one seeking declaratory relief coupled with consequential relief. The learned Trial Court, while adjudicating the application under Section 11 of the Act of 1961, has rightly examined the nature of the reliefs and has concluded that Section 24(b) of the Act is applicable. Accordingly, the petitioner has been directed to amend the plaint with respect to proper valuation and payment of requisite court fee.

This Court does not find any illegality, infirmity, or perversity in the impugned order passed by the learned Trial Court

Accordingly, the present writ petition stands dismissed.

Stay application and pending applications, if any, also stand disposed of.

(MUKESH RAJPUROHIT),J

25-AbhishekS/-