

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

S.B. Civil Second Appeal No. 79/2024

1. Manphool S/o Dodramjat, Aged About 89 Years, R/o Rampura Tehsil Rajgarh, Dist. Churu.
2. Om Prakash S/o Dodram Jat, Aged About 85 Years, R/o Rampura, Tehsil Rajgarh, Dist. Churu.

----Appellants

Versus

1. Krishna W/o Anand Singh Jat, R/o Rampura Tehsil Rajgarh, Dist. Churu.
2. Lrs Of Parwati, W/o Bhola Ram Mahajan,
- 2/1. Naresh S/o Parwati W/o Bhola Ram Mahajan, R/o Rampura, Tehsil Rajgarh, Dist. Churu.
- 2/2. Dinesh Kumar S/o Parwati W/o Bhola Ram Mahajan, R/o Rampura, Tehsil Rajgarh, Dist. Churu.
3. Dharampal S/o Ramotar Singh Rajput, Aged About 54 Years, R/o Rampura, Tehsil Rajgarh, Dist. Churu.
4. Deep Chand S/o Jainarayan Mahajan, Aged About 57 Years, R/o Rampura, Tehsil Rajgarh, Dist. Churu.
5. Padam Singh S/o Hari Singh Rajput, R/o Rampura, Tehsil Rajgarh, Dist. Churu.
6. Shayar Kanwar D/o Hari Singh, R/o Rampura, Tehsil Rajgarh, Dist. Churu.
7. Pushpa Devi Wd/o Chatarsal Rajput, R/o Rampura, Tehsil Rajgarh, Dist. Churu. At Present Ward No. 9, Ravidas Dharmashala, Hanuman Gate Dadari Road, Bhiwani, Tehsil And Dist. Bhiwani, Haryana.
8. Anju D/o Late Chatarsal Rajput, R/o Rampura, Tehsil Rajgarh, Dist. Churu. At Present Ward No. 9, Ravidas Dharmashala, Hanuman Gate Dadari Road, Bhiwani, Tehsil And Dist. Bhiwani, Haryana.
9. Sub Registrar (Tehsildar), Rajgarh, Dist. Churu.

----Respondents

Connected With

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----Respondents

For Appellant(s)	:	Mr. Jitendra Mohan Choudhary Mr. Ashish Jakhaar Mr. Sunil Fagaría for Mr. Vikas Bijarnia
For Respondent(s)	:	Mr. Nishank Madhan for R1 Mr. Hardik Gautam for R2/1, 3 & 4

HON'BLE MS. JUSTICE REKHA BORANA**Order****24/03/2026**

1. The present appeals have been filed aggrieved of judgment & decree dated 19.02.2024 passed by Additional District Judge No.2, Rajgarh, District Churu whereby judgment & decree dated 11.12.2017 passed by Senior Civil Judge, Rajgarh, District Churu in Civil Original Suit No.02/2014, stood reversed.
2. The learned Trial Court, vide judgment & decree dated 11.12.2017, decreed the suit for cancellation of sale deed, specific performance of contract and permanent injunction, in favour of the plaintiffs.
3. The first Appellate Court, while reversing the decree, observed that the learned Trial Court erroneously relied upon the alleged agreement/*bahi* of Samvat 2014 whereas the same was an unstamped document and was not admissible in evidence. The first Appellate Court further held that the alleged agreement was of Samvat 2014 i.e. year 1957-58 whereas the suit in question was filed in the year 2014 and hence, was clearly barred by limitation. The Court observed that the plaintiffs failed to prove their readiness and willingness during all these years and hence, the suit could not have been decreed in their favour.
4. So far as sale deeds dated 10.09.2014, the cancellation of which was sought by the plaintiffs are concerned, the first Appellate Court held that the same were executed in favour of the defendants only qua the land of which they were in possession and further qua which they had an earlier agreement executed in their favour. The first Appellate Court observed that it was an

admitted case of plaintiff Manphool (PW-1) himself that the wife of his two brothers was still in possession of certain part of the land. In that event, when no partition between the brothers was proved on record, it could not have been held that the sale deeds executed in favour of the other defendants was qua any land of the share of the plaintiffs.

5. It was further observed that the alleged *bahi* did not reflect any measurement of the land in question so as to conclude the area of the land for which the said alleged *bahi* was executed. Therefore, without any specification of the area concerned, it could not have been concluded that the land sold out to the defendants was a part of the area of the land of the plaintiffs.

6. While supporting the judgment passed by the first Appellate Court, counsel for the respondents submits that the sale deed has been executed in favour of the respondents only qua the land of which they were in possession. The respondents are claiming no right over the land which is in possession of the plaintiffs as of date. Counsel further submits that they are not inclined to interfere with the same even in future.

7. After hearing the Counsels and perusing the record, this Court is in total consonance with the findings as recorded by the first Appellate Court.

8. The case of the plaintiffs was that qua two bighas of land, a *bahi* was executed by the owner of the land in question and after payment of the complete consideration amount, the possession was handed over to their father. However, the sale deed could not be executed and hence, the suit in question was filed.

9. It is an admitted fact of the plaintiffs themselves that two of their brothers are in possession of a portion of the land through their wife Parvati. However, the plaintiffs did not prove as to which area of land, Parvati was in possession of and further, it is not denied that the alleged agreement itself did not specify any measurement or area of the land in question. In view of the same, when it is admitted on record that two of the brothers of the plaintiffs are in possession of some part of the land, how the plaintiffs were entitled for execution of the sale deed qua some other land, is incomprehensible.

10. This Court does not find any reason to interfere with judgment & decree dated 11.12.2017 passed by the first Appellate Court.

11. No question of law arises in the present appeals and the same are hence, **dismissed**.

12. Let the decrees be drawn accordingly.

13. Stay petitions and pending applications, if any, stand **disposed of**.

(REKHA BORANA),J