

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

S.B. Civil Writ Petition No. 6651/2026

1. Lokesh Sankhala S/o Shri Surendra Sankhala, Aged About 30 Years, Proprietor Balaji Arts And Craft, R/o Plot No. 06, Khasra No.636/4, Mangilal Ji Ka Gav, Near Kalyana Choraha, Post Pratapnagar, Soorsagar, Road, District Jodhpur, Rajasthan.
2. Balaji Arts And Craft, Through Proprietor Lokesh Sankhala S/o Shri Surendra Sankhala, Aged About 30 Years R/o Plot No.06, Khasra No636/4, Mangilal Ji Ka Gav, Near Kalyana Choraha, Post Pratapnagar, Soorsagar, Road, District Jodhpur, Rajasthan Having Registered Office At Plot No 04, Balaji Nagar, Gokul Ba Ki Dhani, Village Pal, District Jodhpur, Rajasthan.

-----Petitioners

Versus

1. Radhika Metals, Registered Partnership Firm Situated At Plot No 90, Khasra No. 454, Village Dhinana Ki Dhani, Pali, District Jodhpur, Rajasthan Through Partners:-

- 1.1 Shri Pramod Panwar S/o Shri Harisingh Panwar
- 1.2 Smt. Narmada Panwar W/o Shri Harisingh Panwar
- 1.3 Smt Deepa Panwar W/o Shri Pradeep Panwar
- 1.4 Smt Kusum Panwar W/o Shri Pamod Panwar
- 1.5 Smt Jyoti Panwr S/o Shri Praveen Panwar

All Are R/o Naya Bas Balsamand, Mandore, District Jodhpur, Rajasthan.

-----Respondent

For Petitioner(s) : Mr. Ramdev Rajpurohit

For Respondent(s) : -

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

27/03/2026

1. It is contended by learned counsel for the petitioners that the suit for money recovery was filed by the respondents and as per the averments made in para 3 of the pleadings in the suit, the cause of action arose initially between 22.09.2020 to 05.06.2022 during which many entries were made for the business transaction between the parties. Hence, the cause of action initially arose on

22.09.2020, whereas the suit was filed by the plaintiff on 28.05.2025, which was barred by limitation. It is contended that the petitioners moved an application under Order 7 Rule 11 read with Section 151 of CPC for rejection of the suit being barred by limitation, but the same was rejected by the learned trial Court. The learned trial Court while rejecting the application committed an error.

2. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court rendered in the case of **Nikhila Divyang Mehta & Anr. Vs. Hitesh P. Sanghvi & Ors.** reported in **2025 LiveLaw (SC) 428**. whereby the Hon'ble Apex Court held that limitation period would be counted from the date when the cause of action first arose.

3. The relevant paras of the judgments are reproduced as under:-

"24. There is no dispute to the fact that the limitation for filing of the suit falls under Article 58 of the Schedule to the Act wherein the limitation prescribed is three years. It may be pertinent to note that the limitation of three years is from the date when the cause of action first arose. So, according to the plaintiff's case, the cause of action first arose on 04.02.2014 and, therefore, the limitation would end on 04.02.2017. However, even if the limitation is calculated from the date of knowledge of the Will and/or the Codicil, it would run from the first week of November, 2014 and would end in the first week of November, 2017. The suit admittedly was instituted on 21.11.2017; much beyond the first week of November, 2017 and as such is apparently barred by limitation, for which neither any defence is required to be looked into nor any evidence in support is needed to be adduced.

27. The submission that limitation is a mixed question of law and fact and that it cannot be decided without allowing the party to lead evidence is of no substance. In the present case, we have earlier noted that the suit was admittedly instituted on 21.11.2017 whereas according to the plaint

averments the cause of action first arose on 04.02.2014. Even assuming that the cause of action last arose in the first week of November, 2014, the suit ought to have been filed by 07.11.2017. The suit was filed on 21.11.2017. It was ex-facie barred by limitation for which, no evidence was required to be adduced by the parties. The above issue is purely an issue of fact and in the admitted facts as per the plaint, allegations stand concluded for which no evidence is needed."

2. The matter requires consideration.
3. Issue notice. Issue notice of stay application also, returnable within a period of six weeks.
4. In the meanwhile and till next date, further proceedings in Civil Original Suit No.22/2025 (N.C.V. No.24/2025) titled as "*Radhika Metals Vs. Balaji Arts and Crafts & Ors.*" pending before the learned Commercial Court No.1, Jodhpur Metropolitan shall remain stayed.

(MUKESH RAJPUROHIT),J