

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

S.B. Civil Writ Petition No. 9400/2026

1. Jetharam S/o Shri Banshi Lal, Aged About 50 Years, R/o Maliyo Ki Dhani, Dediya Nada, Beru, Tehsil And District Jodhpur.
2. Madan Singh S/o Shri Roop Singh, Aged About 55 Years, R/o Timbana, Tehsil Shergarh, District Jodhpur.

-----Petitioners

Versus

1. Jasraj S/o Shri Manglaram, R/o Lohawat Moolraj, Tehsil Lohawat, District Jodhpur.
2. Smt. Nainidevi W/o Shri Jasraj, R/o Vishnoiyon Ka Vaas, Lohawat Moolraj, District Jodhpur.
3. Anil S/o Shri Jasraj, R/o Vidhnoiyon Ka Vaas, Lohawat District Jodhpur.
4. The New India Insurance Company Ltd., Through Divisional Officer, Divisional Office Ss Tower, Akhaliya Chouraha, Chopasani Road, District Jodhpur.

-----Respondents

For Petitioner(s) : Mr. Ravi Panwar

For Respondent(s) :

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

08/05/2026

1. By way of the present civil writ petition under Article 226 of the Constitution of India, the petitioner has sought following reliefs :-

“It is, therefore, humbly and respectfully prayed that this writ petition of the petitioner may kindly be allowed:-

- (a) *Issue an appropriate writ, order or direction, quashing and setting aside the execution proceedings in pursuance of the order dated 05.04.2024 (Annx.1) passed by the learned Motor Accident Claims Tribunal, Balotra, whereby recovery*

proceedings have been initiated against the petitioners in pursuance of the ex-parte award;

- (b) Stay the operation and effect of the ex-parte award dated 05.04.2024 passed by the learned Motor Accident Claims Tribunal, Balotra in MACT Case No. 185/2021, as well as all consequential recovery proceedings initiated against the petitioners, during the pendency of the present writ petition;*
- (c) Direct the Tribunal, Balotra to first decide the pending application filed by the petitioners under Order 9 Rule 13 read with Section 151 of the Code of Civil Procedure on merits, in accordance with law, before proceeding further with any recovery or execution proceedings;*
- (d) grant any other relief, which this Hon'ble Court may deem just and proper in the facts and circumstances of the case in favour of the petitioner."*

2. Learned counsel for the petitioner submits that the learned trial court, vide ex parte judgment and award dated 05.04.2024, allowed the claim petition and fastened the liability upon the petitioners while exonerating the Insurance Company from such liability. It is further submitted that, subsequent thereto, the petitioners preferred an application under Order IX Rule 13 read with Section 151 of the Code of Civil Procedure, 1908. Learned counsel further submits that execution proceedings have since been initiated against the petitioners in pursuance of the impugned judgment and award, and that a warrant of attachment has been issued vide order dated 21.01.2025 passed by the learned Family Court, Balotra, in MACT Misc. Case No.14/2024.

3. Learned counsel for the petitioner further submits that, in the event the respondent(s) proceed with the auction pursuant to the aforesaid execution proceedings, the application preferred by the petitioner under Order IX Rule 13 CPC will be rendered infructuous. It is, therefore, prayed that an appropriate direction

be issued to the learned trial court to consider and decide the said application expeditiously.

4. Having regard to the facts and circumstances of the case, this Court deems it appropriate to dispose of the present civil writ petition with a direction to the learned trial court to consider and decide the petitioner's application under Order IX Rule 13 read with Section 151 CPC within a period of two months from the date of receipt of a certified copy of this order. It is further directed, in the interest of justice, that till the said application is decided, the execution proceedings pending before the learned Family Court, Balotra, in MACT Misc. Case No.14/2024, shall remain stayed.

5. Stay application and all pending application(s), if any, also stand disposed of.

(MUKESH RAJPUROHIT),J