HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 17226/2025

1. M/s Salasar Logistic, Through Proprietor Smt. Shushma Dayal W/o Shri Jitendra Kumar Dayal, Aged About 56 Years, B-501, Silver Square Apartment, New Vidya Nagar, Hiran Magri, Sector-4, Manva Khera, Udaipur (Raj.), At Present Residing At 104, Shree Udai Arcade, Sukhadia Circle, Udaipur(Raj.).
2. Smt. Shushma Dayal W/o Shri Jitendra Kumar Dayal, Aged About 56 Years, R/o B-501 Silver Square Apartment, New Vidya Nagar, Hiran Magri, Sector-4, Manva Khera, Udaipur (Raj.). At Present Residing At 104, Shree Udai Arcade, Sukhadia Circle, Udaipur (Raj.)

----Petitioners

Versus

Shri Rajendra Suri Travels, Through Proprietor Shri Praveen Singh Lodha, S/o Late Shri Fatehsingh Ji Lodha, R/o 94-A, New Fatehpura, Udaipur(Raj.).

----Respondent

For Petitioner(s)	:	Mr. Gaurav Ranka for Mr. Muktesh Maheshwari
For Respondent(s)	:	Mr. Digvijay Singh Jasol

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

24/03/2026

1. By way of the present writ petition, the petitioners have challenged the order 05.08.2025 (Annx.5) passed by the Commercial Court, Udaipur in Original Suit No. 198/2018 (C.I.S. No.201/2018), titled "Rajendra Suri Travels vs. M/s Salasar Logistic & Anr.", whereby the application under Order VI Rule 17 read with Section 151 of C.P.C. has been rejected.

2. Heard learned counsel for the parties.

3. Learned counsel for the petitioners submits that the Commercial Court below ignored settled law and binding precedents while declining to permit amendment of the written statement to raise the plea of non-compliance with the Rajasthan Money Lenders Act, 1963, even in a case where the loan

transaction itself is denied. It is further contended that the Commercial Court failed to consider whether the proposed amendments were necessary for determining the real controversy between the parties and instead rejected the application arbitrarily.

4. It is further contended that as per the plaint itself, the alleged loan transactions were advanced on multiple occasions, *prima facie* attracting the provisions of the said Act of 1963, thereby making the proposed amendment relevant and material.

5. It is submitted that amendment sought raises pure questions of law relating to maintainability of the suit and statutory bar under the Act of 1963, which can be raised at any stage. Therefore, he argues that rejection of such amendment has resulted in denial of a vital legal defence.

6. It is contended that application was erroneously rejected on the ground of delay and stage of proceedings, without proper application of the proviso to Order VI Rule 17 of CPC, despite the fact that the amendment does not change the nature of the defence and causes no prejudice to the respondent. He therefore urges that the impugned order dated 05.08.2025 deserves to be quashed and set aside.

7. In support of his contention, learned counsel for the petitioners has relied upon a decision of this Court at Jaipur Bench in ***Firm Janki Lal Ramdas vs. Mohandas*** reported in ***1986 WLN (UC) 540***.

8. In contrast, learned counsel for the respondent while supporting the order impugned, submits that the application for

amendment was rightly rejected by the Commercial Court, as the same was filed at a highly belated stage, after settlement of issues and when the matter had already reached the stage of cross-examination. It is contended that no explanation worth the name was furnished to satisfy the requirement of "due diligence" as mandated under the proviso to Order VI Rule 17 of C.P.C.

9. It is further submitted that the petitioners had denied the factum of loan transaction in their written statement, and therefore, the plea sought to be introduced by way of amendment, based on applicability of the Act of 1963, is mutually destructive and legally untenable. It is argued that such inconsistent pleas ought not to be permitted at a belated stage.

10. I have considered the submissions made by learned counsel for the parties, perused the material available on record and examined the judgment cited.

11. The law relating to amendment of pleadings under Order VI Rule 17 of C.P.C. is well settled. While the Court possesses wide discretion to permit amendments for determining the real controversy between the parties, such discretion is circumscribed by the proviso, which mandates that once the trial has commenced, no amendment shall be allowed unless the party satisfies the Court that despite due diligence, the matter could not have been raised earlier.

12. In the present case, it is not in dispute that the issues were framed on 11.09.2018 and the matter had already proceeded to the stage of evidence, with the affidavit in examination-in-chief having been filed. The application for amendment came to be filed

thereafter, at a significantly belated stage. Crucially, the petitioners have failed to furnish any explanation whatsoever to demonstrate the exercise of due diligence or to justify why the plea sought to be introduced was not raised at the appropriate stage.

13. The contention that the proposed amendment raises a pure question of law going to the root of the matter does not merit acceptance in the facts of the present case. The applicability of the Rajasthan Money Lenders Act, 1963 is not a standalone abstract legal issue, but is contingent upon foundational facts demonstrating that the plaintiff was engaged in money-lending activities within the meaning of the statute. In the absence of any such factual foundation either admitted or pleaded in the written statement, the proposed amendment remains conjectural and cannot be said to be necessary for effective adjudication of the dispute.

14. The reliance placed by learned counsel for the petitioners on ***Firm Janki Lal Ramdas's case*** *(supra)* is clearly misplaced and distinguishable on facts. In the said case, the plea regarding applicability of the Rajasthan Money Lenders Act was permitted to be raised at a later stage in view of specific material that had emerged during the course of proceedings, particularly an admission elicited during cross-examination indicating that the plaintiff was engaged in the business of advancing loans on interest. It was in that factual backdrop that the Court found the amendment to be necessary for determining the real controversy.

15. In contradistinction to the present case, no such subsequent development or admission has been brought on record which would justify the belated introduction of the proposed plea. The petitioners had, from the very inception, taken a categorical stand denying the loan transaction itself, and have failed to demonstrate as to how, despite due diligence, the present plea could not have been raised earlier. The amendment sought, therefore, not only lacks foundational support but also runs contrary to the primary defence already taken.

16. The Commercial Court has, thus, rightly exercised its discretion in rejecting the application by taking into consideration the advanced stage of the proceedings, the absence of due diligence and the lack of necessity of the proposed amendment for determining the real controversy between the parties. In the opinion of this Court, impugned order does not suffer from any jurisdictional error, perversity or material irregularity warranting interference under writ jurisdiction.

17. Consequently, this Court finds no merit in the present writ petition.

18. The writ petition is, accordingly, dismissed.

19. Stay petition as well as all pending application(s), if any, shall also stand disposed of.

(MUKESH RAJPUROHIT),J

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