

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 765/2026

Karnidan Singh, S/o Shri Pushpendra Singh

-----Petitioner

Versus

Anand Kanwar Daughter Of Late Ranjeet Singh

-----Respondent

For Petitioner(s) : Mr. Siddharth Bapna
Ms. Tanushka Saxena

For Respondent(s) :

HON'BLE MR. JUSTICE BIPIN GUPTA

Order

22/01/2026

1. It is contended by learned counsel for the petitioner that vide impugned order dated 06.11.2024, the application filed under Section 45 of the Indian Evidence Act, 1872 (hereinafter referred to as 'the Act of 1872') has been rejected.

2. He submits that the petitioner-defendant had applied to the learned trial Court under Section 45 of the Act of 1872 for sending the power of attorney to the FSL, for the purpose of comparing the thumb impression of Anand Kanwar-plaintiff, whereby she has given a power of attorney in favour of one Ram Singh and on the basis of the said power of attorney, Ram Singh had filed a suit against the present petitioner.

3. In the said suit, reply was filed by the present petitioner disclosing the Will. The proceedings in the said suit took place way back in the year 1984. He further submits that the suit ultimately got dismissed.

4. Learned counsel for the petitioner further submits that thereafter respondent-plaintiff Anand Kanwar filed the present suit for cancellation of the Will.

5. He contends that, at an earlier point in time, the will was already within the knowledge of Anand Kanwar in the suit filed through her power of attorney holder, namely Ram Singh. Therefore, the suit was time barred.

6. He also submits that the respondent-plaintiff Anand Kanwar has denied the execution of the power of attorney in favour of Ram Singh.

7. He therefore, submits that since on the Will, the thumb impression were of respondent-plaintiff Anand Kanwar and as per the law laid down by the Hon'ble Apex Court in the case of ***Thiruvengadam Pillai vs Navaneethammal and Anr.***; 2008 (4) SCC 530 verification of thumb impression could only be done by an expert and can not be verified by the Court while exercising powers under Section 73 of the Indian Evidence Act, 1872.

8. He, therefore, submits that the learned trial Court has wrongly rejected his application.

9. Heard.

10. Let notices be issued to the plaintiff-respondent No. 1.

11. Rule is made returnable within four weeks.

12. In the meanwhile, further proceedings in suit No. 133/2022 shall remain stayed till the next date of hearing.

13. This order will come into effect only after the service on the respondents.

14. List this matter after four weeks.

(BIPIN GUPTA),J