

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil First Appeal No. 233/2026

Mohan Lal Ganwariya Son of Phusaram Ganwariya, aged about 53 Years, Resident of Plot No.e-10 Chitrakoot Colony, Jaipur Road, Sikar Rajasthan)

----Appellant

Versus

1. Mukesh Kumar Son of Jogendra Singh, aged about 43 Years, Resident of Shobha Ka Bass, Tehsil Malsisar, District Jhunjhunu (Rajasthan.
2. Danveer Khichadson of Ramgopal Khichad, aged about 58 Years, Resident of Khichadon Ka Bass, Tehsil Sikar, District Sikar (Rajasthan) Since Deceased Through His Legal Heirs
- 2/1. Sukhdevi Wife of Shripal, Resident of Khichadon Ka Bass, Tehsil Sikar, District Sikar.
- 2/2. Rajkumar Son of Shripal, Resident of Khichadon Ka Bass, Tehsil Sikar, District Sikar
- 2/3. Ashok Kumar Son of Shripal, Resident of Khichadon Ka Bass, Tehsil Sikar, District Sikar
- 2/4. Vinod Kumar Son of Shripal, Resident of Khichadon Ka Bass, Tehsil Sikar, District Sikar
- 2/5. Supyar Devi Daughter of Sripal Khicad Wife of Jhabar, Resident of Bhirana Tehsil Dantaramgarh, District Sikar
- 2/6. Sumitra Devi Daughter Shripal Khichad Wife of Harlal, Resident Bhirana Tehsil Dantaramgarh, District Sikar
- 2/7. Kamla Devi Wife of Bhagwati Lal Khichad, Resident of Khichadi Ka Bass, Sikar Tehsil And District Sikar.
- 2/8. Rajendra Kumar Son of Bhagwati Lal, Resident of Khichadon Ka Bass, Sikar Tehsil And District Sikar
- 2/9. Vikas Kumar Son of Bhagwati Lal, Resident of Khichadon Ka Bass, Sikar Tehsil And District Sikar
- 2/10. Sushila Devi Daughter of Bhagwati Lal Khichad Wife of Ashwin, Resident of Katrathal, Tehsil And District Sikar.
- 2/11. Savita Devi Daughter of Bhagwati Lal Khichad Wife of Madangopal, Resident of Dishnow, Tehsil Laxmangarh, District Sikar

- 2/12. Keshari Devi Daughter of Danveer Khichad Wife of Gangadhar, Resident of Palthana, Teshil Sikar Rural, District Sikar.
3. Sunil Kumar Son of Ramgopal Sharma, aged about 58 Years, Resident of Doliyan Ka Bass, Sikar Tehsil and District Sikar (Rajasthan) since deceased through his legal heirs
- 3/1. Mayadevi Wife of Late Sunil Sharma,
- 3/2. Priti Sharma Daughter of Late Sunil Sharma,
- 3/3. Rishabh Sharma Son of Late Sunil Sharma,
3/1 to 3/3 all resident of Behind Jain School, Doliyon Ka, Sikar Tehsil and District Sikar.

-----Respondents

For Appellant(s) : Mr. Arpit Srivastava
For Respondent(s) : Mr. D.S. Dhariwal

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

23/02/2026

1. At the outset of the hearing, learned counsel for the respondents raises a preliminary objection about the maintainability of the present first appeal because the suit has been filed under Section 6 of the Specific Relief Act 1963, therefore, the proper remedy is to file a revision, not the first appeal as preferred by the learned counsel for the appellant.
2. Learned counsel for the appellant, in view of the aforesaid preliminary objection, seeks permission to withdraw the present first appeal with liberty to file a civil revision petition and prays that since the appellant is wishful of withdrawing the present first appeal. The Court fees so paid may kindly be refunded to the

appellant and the certified copy of the order and the *Vakalatnama* so filed be returned to the appellant.

3. Heard.

4. Considering the facts and circumstances of the case, the appeal is permitted to be withdrawn with liberty to file a civil revision petition.

5. Since the appellant is withdrawing the present civil first appeal, he is entitled for the refund of the Court fees Rs.18,320/- in terms of the judgment passed by Hon'ble Apex Court in the matter of ***High Court of Judicature at Madras Vs. M.C. Subramaniam & Ors.***¹, therefore, the Registry is directed to prepare a certificate regarding the refund of the Court fees of Rs.18,320 /- in favour of the appellant.

6. In view of the aforesaid discussion, the present civil first appeal stands dismissed as withdrawn.

7. Any other pending application(s), if any, stand disposed of.

8. In case the civil revision petition is filed, the appellant may be permitted to seek condonation of delay under Section 5 and 14 of the Limitation Act, 1963, while considering the fact that the present appeal bonafidely remained pending from 12.01.2026 till 23.02.2026.

9. Office is directed to return the *Vakalatnama* and certified copy of the impugned judgment and decree after retaining a xerox copy of the same.

(MANEESH SHARMA),J

SOURAV /27

1 (2021) 3 SCC 560