

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 1708/2026

Radheshyam S/o Shree Ram

-----Petitioner

Versus

Heera & Anr.

-----Respondents

For Petitioner(s)	:	Mr. Devashish Pancholi
For Respondent(s)	:	

HON'BLE MR. JUSTICE BIPIN GUPTA

Order

30/01/2026

1. The present writ petition has been filed assailing the order dated 08.12.2025, passed by the learned Civil Judge & Judicial Magistrate, Malpura, District Tonk in Execution Petition No. 12/2019, whereby in the application filed under Order 21 Rule 97 and 101 CPC by the defendant-judgment debtor, the Court ordered for leading evidence in the execution petition on the objections filed by the defendant.

2. Learned counsel for the petitioner contends that the decree was passed in his favour on 20.05.2009. Further, the appeal preferred by the defendant-respondent was dismissed vide order dated 26.05.2017. Thereafter, the execution petition came to be filed by the plaintiff-petitioner in which finally, the possession was given to the plaintiff after removing the possession of the defendants in presence of the villagers and even a compliance report was submitted by the *Nazir* on 10.11.2025. Thereafter, the said compliance report was taken on record vide order dated 11.11.2025 and on the same day, an application came to be filed

by the defendant-judgment debtor under Order 21 Rule 97 read with Section 101 CPC wherein the impugned order dated 08.12.2025 was passed.

3. It is contended by learned counsel for the petitioner that the provisions of Order 21 Rule 97 read with Section 101 CPC do not apply and no right is there of the judgment-debtor to file the application. The said application can only be filed by a person, who is a third party to the litigation and therefore, the learned trial Court has committed illegality while passing the impugned order dated 08.12.2025.

4. Heard.

5. Let notices be issued to the respondents. Rule is made returnable within four weeks.

6. "Dasti" permitted.

7. In the meanwhile, operation of the impugned order dated 08.12.2025 shall remain stayed, till the next date of hearing.

8. The stay order will come into effect only after service upon the respondents is complete.

9. List the matter after four weeks.

(BIPIN GUPTA),J