

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil First Appeal No. 228/2026

Aslam S/o Mohammad Bashir Khan, & Ors.

----Appellants

Versus

Nisar Ahmed S/o Shri Abdul Hakim, & Ors.

----Respondents

For Appellant(s)	:	Mr. Vimal Kumar Jain with Mr. Shubham Jain
For Respondent(s)	:	Mr. Vikas Kabra (as Caveator)

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

25/02/2026

1. While impugning the judgment and decree dated 16.12.2025 passed by the learned Additional District Judge, Tonk, whereby the suit for partition filed by the plaintiff/respondents was decreed, learned counsel for the appellants submits that the learned Court below erred in decreeing the suit for partition while ignoring the Will dated 19.04.1967. He further submits that, though the said document was taken on record on 31.03.2017 and later impounded, the appellant thereafter deposited the deficient stamp duty and penalty; yet, the said document was not considered while deciding the suit. He further submits that the learned Court below erred in issuing an injunction against the appellants, overlooking the fact that the plaintiff/respondents are not in possession of the suit property. He therefore submits that the impugned judgment and decree are unsustainable in the eyes of the law.

2. *Per contra*, learned counsel appears as a Caveator on behalf of the respondents vehemently opposes the said submission and submits that the learned Court below has considered the facts in detail and given a detailed finding regarding the objection so raised by the appellant which has been narrated in para Nos.19 and 21 of the impugned judgment and decree and submits that there is no merit in the present first appeal, therefore, prays for dismissal of the appeal.

3. Heard.

4. Looking to the serious factual issues involved in the present appeal, the matter requires consideration.

5. Admit.

6. Mr. Vikas Kabra, learned counsel, appears as a Caveator, and accepts notice on behalf of respondent Nos.1/1 to 1/8, and respondent No.2 to 4, therefore, service is complete against respondent Nos.1/1 to 1/8, and respondent No.2 to 4; therefore, notice be issued to respondent No.5 only.

7. In the meanwhile, the learned Trial Court is free to proceed with the proceedings of the final decree, but shall not pass the final decree during the pendency of the present first appeal.

8. Further, the parties are directed to maintain the status quo in relation to possession and alienation with regard to the suit property as it exists today.

9. Accordingly, the Civil Misc. Stay application No.585/2026 is disposed of.

(MANEESH SHARMA),J