

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 2651/2026

Dilip Patel S/o Heera Lal Patel, Aged About 59 Years, R/o Near Nagpal Petrol Pump, Beawar Road, Ajmer (Raj.)

-----Applicant/Petitioner

Versus

- 1

Smt. Taradevi, W/o Late Shri Gangaram
- 2

Shri Devendra Kumar, S/o Late Shri Gangaram
- 3

Shri Ramesh Kumar, Late Shri Gangaram
- 4

Kumari Lata, D/o Late Shri Gangaram
- 5

Shri Shivdatt, S/o Late Shri Gangaram
- 6

Kumari Prabha, D/o Late Shri Gangaram
- 7

Kumari Pushpa Late Shri Gangaram,
5 To 7 Are Minor Through Natural Guardian Mother Smt.
Taradevi W/o Late Shri Gangaram R/o Bhagwanganj,
Gautam Nagar, Ajmer

...Plaintiffs/Non-Applicants/Respondents

- 8

Shri Basant Patel S/o Shri Heeralal Ji Patel, 416/26 New
900/26 Old Mahabodi Road, Gautamnagar, Bhagwanganj,
Ajmer

-----Defendant/Respondent/Non-Applicant

For Petitioner(s)

:

Mr. Vishwajeet Mantri with
Adv. Bismaad Kaur

For Respondent(s)

:

HON'BLE MR. JUSTICE BIPIN GUPTA
Judgment / Order

28/04/2026

1. The present civil writ petition has been filed assailing the order dated 07.01.2026, passed by learned Additional Civil Judge-cum-Judicial Magistrate No.5, Ajmer, in Civil Original Suit No.48/2009 (CIS No. 4689/2024), whereby the application filed by the applicant-petitioner under Order 1 Rule 10 CPC has been rejected.

2. The brief facts giving rise to the present case are that the plaintiffs–respondents Nos. 1 to 7 filed a suit for permanent injunction against defendant–respondent No. 8, who has already filed his reply. During the pendency of the suit, the applicant–petitioner filed an application seeking impleadment as a party defendant on the ground that he is a co-sharer in the disputed property. He submits that, being a co-sharer, he is a necessary party and ought to have been impleaded as a defendant in the suit.

2.1 After hearing both the parties, the learned trial Court has dismissed the said application vide order dated 07.01.2026.

3. Hence, feeling aggrieved by the order dated 07.01.2026, the applicant-petitioner has preferred the present writ petition.

4. Learned counsel for the petitioner submits that the order dated 07.01.2026 is contrary to the material available on record and the settled position of law. He contends that the learned trial Court failed to appreciate that, apart from the defendant, his brothers also have an identical interest in the disputed property as co-sharers, and therefore, the petitioner is a necessary party who ought to have been impleaded.

4.1 Learned counsel for the petitioner submits that the learned trial Court erred in rejecting the petitioner’s application on the ground that the suit is one for simpliciter injunction, despite the fact that the title of the property is seriously disputed and clouded.

4.2 Learned counsel for the petitioner further contends that a suit for bare injunction is not maintainable where the title of the

property is under a cloud, and without seeking a declaration, no injunction can be granted.

4.3 In the view of above, learned counsel for the petitioner prays that the writ petition be allowed, the order dated 07.01.2026 be quashed and set aside, and the application under Order 1 Rule 10 CPC be allowed.

5. Heard learned counsel for the petitioner and perused the material made available on record.

6. This Court finds that the plaintiff is the dominus litis and no individual can compel a plaintiff to pursue a remedy against an particular person. The Hon'ble Apex Court in a recent judgment of ***Nak Engineering Company Pvt. Ltd. Vs TarunKeshrichand Shahand Ors.***; 2026 INSC 8 has reiterated that one who institutes the suit is the dominus litis and it is their prerogative to choose their adversaries. The relevant paragraph of the judgment is reproduced herein below:

"39. This apart, the respondent Nos.1 and 2 who have instituted the suit are dominus litis and it is for them to choose their adversaries. If they do not array the proper and necessary parties to the suit, they do it at their own risk. However, they cannot be compelled to add a party to defend a suit against their wishes. The decree, if any, passed in the suit would be binding only between the parties to the suit and would not infringe upon any right of a third party, much less of the appellant that is not a party to the suit."

7. This Court thus finds no error so as to call for any interference in its writ jurisdiction under Article 227 of the Constitution of India. Accordingly, the writ petition is dismissed.



8. Pending application(s), if any, also stands disposed of.

(BIPIN GUPTA),J

Sudha Pandey /6