

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 3371/2026

Dinesh Kumar Sharma Son Of Late Shri Hanuman Prasad Sharma, Aged About 47 Years, Resident Of Plot No. 224 A, Govind Nagar, Amer Road, Jaipur (Rajasthan).

-----Petitioner/Applicant

Versus

1. Manoj Kumar Son Of Shri Ramchandra Sukhwani, Resident Of Plot No.12, Rambihar, Kunda Road, Jaisinghpura Khor, Jaisinghpura Shekhawat, Jaipur, Rajasthan.
2. Icici Bank Limited Shakha Jda Campus, Jawahar Lal Nehru Marg, Jaipur, Rajasthan.
3. Public, At Large

-----Respondents/Non-applicants

For Petitioner(s)	:	Mr. Rajendra Prasad Yadav with Mr. Shivam Saini
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HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

23/02/2026

1. The present petition has been filed by the petitioner/applicant/plaintiff (for short, 'petitioner') under Article 227 of the Constitution of India against the order dated 09.02.2026 passed by the learned District Judge, Jaipur Metropolitan First (for short, 'trial Court') whereby the application filed by the petitioner under Section 151 of the Civil Procedure Code, 1908 (for short, 'CPC') for taking the evidence was dismissed.

2. The brief facts of the case are that an application for succession certificate was filed by the respondent No. 1/non-applicant/defendant (for short, 'respondent') regarding the total amount of Rs. 5,73,805.70 being deposited in account number 675401019677 of late Smt. Savitri Devi, wife of late Shri Girdhar Kumar Sharma at Bank ICICI Ltd., Branch JDA Campus, Jaipur and the same was issued by the learned Court of District and Session Judicial, Jaipur vide its order dated 11.09.2019.

The learned counsel for the petitioner has claimed that pursuant to him taking care of the well-being of late Smt. Savitri Devi, a will was executed by her in his favour on 22.12.2017, mentioning thereby, that the bequest of Plot No. 79 Fateh Tibba, Adarsh Nagar, Jaipur allotted and leased by the Jaipur Municipal Corporation including all movable and immovable properties along with the amount deposited in the bank accounts to be acquired by the petitioner in future, however, the same was not brought to the knowledge of the learned Court. Therefore, on 12.12.2019, an application under Section 383 of the Indian Succession Act, 1925 was filed by the petitioner for cancellation of the said succession certificate before the learned Court of District and Session Judicial, Jaipur. In response to this, the respondent No. 1 filed his reply on 16.05.2023.

The respondent obtained the death certificate of Smt. Savitri Devi from the Municipal Corporation of zone Sanganer, in response to which, an objection was filed by the petitioner. The Municipal Corporation of zone Sanganer sought clarification and demanded respondent's identity proof, but the same was not submitted by him.

Pursuant to this, the petitioner filed an application under Section 151 CPC for calling/production of the succession certificate from the respondent No. 1 and the same was allowed vide order dated 26.03.2024. On 19.04.2025, the opportunity of presenting evidence by the petitioner was closed, in response to which, he filed an application on 09.02.2026 under Section 151 of the CPC for opening of his evidence. The said application was dismissed by the learned trial Court vide its impugned order dated 09.02.2026.

3. The learned counsel for the petitioner submits that the petitioner could not produce the evidence as despite taking regular updates from his previous advocate - Pritam Saini, he was not informed about the status of the case and since the opposite party's evidence has not commenced yet, permission to present evidence should be given to him. He also submits that in the documents submitted by the respondent No. 1, he mentioned his father's name as Ramchandra in many places and as Girdhar Kumar Sharma in other places, however, him

being a Sindhi by caste, his father cannot belong to Brahman caste and thus, he has no right to inherit.

He further submits that since the petitioner himself filed an application for revocation of the succession certificate, a question of delaying the proceedings on his part does not arise.

4. Considered the submissions made at Bar and also perused the material made available on record.

5. In the light of the submissions made by learned counsel for the petitioner and the facts on record, the question which arose for consideration is: 'Whether the case at hand warrants interference when despite being provided with the ample opportunities, no evidence was presented by the petitioner due to the negligence of his advocate?'

6. The Hon'ble Supreme Court in the case of **Rajneesh Kumar and Anr. v. Ved Prakash, decided on 21.11.2024 in SLP (Civil) Nos. 935-936 of 2021**, observed as under:

"10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated

at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief."

7. Having regard to the case cited above, and also taking into consideration the factual matrix of the case and prayer made in this petition, the Court is not inclined to interfere with the impugned order. In the present case, the learned trial Court appraised the facts that after the petitioner filed an application on 12.12.2019, and pursuant to the respondent's reply dated 16.05.2023, the date for petitioner's evidence was fixed as 27.07.2023, however, instead of presenting his evidence, an application under Section 151 CPC was filed by him. The said application was disposed of on 26.03.2024 and the date of presenting petitioner's evidence was again fixed as 01.05.2024 and when even on the said date, no evidence was presented, petitioner's evidence was finally closed on 19.04.2025.

It is a well-settled fact that negligence on the part of the advocate cannot be a ground for delaying the case unnecessarily. The petitioner is not a rustic ignorant villager residing away from where the Court is located and thus, cannot claim to be completely ignorant of his interest.

It is to be noted that the case at hand is pending for the past seven years and no adequate reason has been provided by the petitioner for filing the application for re-opening of his

evidence at a time when the matter is at the final stage of debate. Therefore, the Court is not inclined to allow any further delay in the case when ample opportunities have already been provided to the petitioner.

8. In view of the foregoing discussion, the civil writ petition filed by the petitioner has no force and is accordingly dismissed.

9. In view of the order passed in the main petition, the stay application as well as pending application, if any, also stands disposed of.

(GANESH RAM MEENA),J