

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 3394/2026

Bhawani Shankar S/o. Matadeen

-----Petitioner

Versus

Murari Lal S/o. Matadeen

-----Respondent

For Petitioner(s)	:	Mr. R.K. Daga Mr. Jitendra Kumar Meena Mr. Aanjnaiy Sharma
For Respondent(s)	:	

HON'BLE MR. JUSTICE BIPIN GUPTA

Order

23/02/2026

1. Learned counsel for the petitioner submits that vide order dated 16.10.2025, passed by learned Additional District Judge No.4 Kotputli, District Kotputli-Behror, the learned First Appellate Court while exercising the power under Order 41 Rule 25 CPC has set aside the judgment and decree dated 14.12.2018, passed by learned Civil Judge (Junior Division), Kotputli, and remanded the matter back.

2. Learned counsel for the petitioner submits that under Order 41 Rule 25 CPC, the learned First Appellate Court could have framed the issues and then refer the same to the learned Trial Court, which would remit the evidence as well as its finding to the learned First Appellate Court and thereafter, the appeal ought to have been decided. He thus, contends that the learned First Appellate Court has committed illegality in passing the impugned order.

3. Heard.

4. Let notices be issued to plaintiff-respondent No.1. Rule is made returnable within four weeks.

5. In the meantime, effect and operation of the order dated 16.10.2025 shall remain stayed to the extent of setting aside the entire judgment of the learned Trial Court. Further, considering the provisions of Order 41 Rule 25 CPC, this Court deems it appropriate to direct that learned Trial Court, that it shall consider the issue as framed by the learned First Appellate Court vide order dated 16.10.2025. Further, the learned Trial Court shall take evidence only on the said issue.

6. It is further made clear that learned Trial Court shall not pass any final order.

7. List this matter after four weeks.

(BIPIN GUPTA),J