

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 1325/2025

Shambhu Dayal S/o Ramdev, (Deceased) R/o Juniya Through
LR.s

----Appellants-Plaintiffs

Versus

Sukha S/o Ramcharan Raiger, Deceased Through LR.s.

----Respondents-Defendants

For Appellant(s)	:	Mr. Praveen Kumar Jain
For Respondent(s)	:	

HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

15/04/2025

Heard.

Considered.

Counsel for the appellants submits that the suit was filed by the plaintiffs/appellants for specific performance in view of the agreement to sell dated 10.05.1996. The suit was said to have been decreed vide judgment and decree dated 16.01.2018. However, during pendency of the appeal, the respondents/defendants moved an application under Order 41 Rules 25 & 27 read with Section 151 CPC. While passing the order on the application, the learned Appellate Court ordered to frame an additional issue and remanded the matter to the learned trial Court for recording evidence and passing a fresh judgment.

Counsel for the appellants submits that the suit was for specific performance and the trial Court was under an obligation to check whether the suit for specific performance could have been

instituted and whether the suit was maintainable in view of the alleged sale agreement in between the parties. He further submits that there was no pleading from the defendants side as regards the possession over the land in question.

Issue notice of the appeal as well as of the stay application to the respondents. Same is made returnable by four weeks.

In the meantime and till further orders, the effect and operation of the order dated 21.01.2025 passed by the learned Additional District and Sessions Judge No.2, Kekri, District Ajmer in Civil Appeal No.26/2022 (2/2018) shall remain stayed.

(GANESH RAM MEENA),J