

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Second Appeal No. 173/2025

Ramkalyan S/o Gordhanlal

----Appellant

Versus

Mamtabai D/o Balmukand W/o Mukesh

----Respondent

For Appellant(s)	:	Mr. J.K. Singhi, Senior Advocate with Mr. Tarun Kumar Verma
For Respondent(s)	:	Mr. Govind Lal Choudhary

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

24/03/2025

1. Considered submission of learned Senior Advocate appearing for appellant and learned counsel appearing for respondent(s) as caveator.
2. Aggrieved from dismissal of civil regular appeal no. 10/2023 by learned Additional District Judge, Chhabra, District Baran on 25.02.2025 affirming the judgment and decree dated 24.07.2023 in civil suit no. 62/2017 instant second appeal is preferred by appellant defendants.
3. Learned Senior Advocate has raised several issues including fabrication in agreement to sale and also non-receipt of sale consideration at the time of agreement to sale. He further submitted that the possession of the suit property was never handed over by appellants. He also raised other grounds as well.
4. Aforesaid contentions were opposed by learned counsel for respondent(s) plaintiffs.

5. During course of argument, it has come to notice that a sale deed was registered in compliance of decree dated 24.07.2023 by assistant Nazir of learned Senior Civil Judge, No.2, Chhabra, District Baran wherein on page no.3 it was mentioned that the possession and title of suit property was handed over to second party (plaintiffs).
6. Learned Senior Advocate appearing for appellant submits that sale an execution proceeding is going on and pending before learned trial court wherein trial court is adamant to warrant of possession despite mention of handing over possession in sale deed.
7. Having considered aforesaid.
8. A fact mentioned in sale deed be brought to the notice of learned Executing Court and learned Executing Court will consider this statement made in sale deed before passing any order, for execution of warrant of possession.
9. Call for record.
10. The trial court and the appellate court will ensure to send record by special messenger.
11. List on 07.04.2025.

(ASHOK KUMAR JAIN),J