HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 4046/2025
URN: CW / 10281U / 2025

Prem Prakash Sharma S/o Late Shri Radheyshyam Sharma, Aged About 60 Years, R/o House No. 2499, Jailal Munshi Ka Rasta, Chowkdi Purani Basti, Jaipur (Rajasthan).

----Petitioner

Versus

1. Rajendra Kumar Sharma S/o Late Shri Radheyshyam Sharma, Aged About 58 Years, Resident Of House No. 2027, Norangi Bai Ka Nohra, Totaram Ka Gher, Bhatto Ki Gali, Ramganj, Jaipur.
2. Govind Narayan S/o Late Shri Radheyshyam Sharma, Aged About 56 Years, Resident Of House No. 2027, Norangi Bai Ka Nohra, Totaram Ka Gher, Bhatto Ki Gali, Ramganj, Jaipur.
3. The Assistant Commissioner First, Devasthan Department, Jaipur, Ratan Bihari, Devadi Ji Ka Mandir, Opp. Hawamahal, Badi Choupad, Jaipur.

----Respondents

Connected With

S.B. Civil Writ Petition No. 4040/2025
URN: CW / 10273U / 2025

Prem Prakash Sharma S/o Late Shri Radheyshyam Sharma, Aged About 60 Years, R/o House No. 2499, Jailal Munshi Ka Rasta, Chowkdi Purani Basti, Jaipur (Rajasthan).

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3. The Assistant Commissioner First, Devasthan Department, Jaipur, Ratan Bihari, Devadi Ji Ka Mandir, Opp. Hawamahal, Badi Choupad, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. Bhaskar Sharma
For Respondent(s)	:	Mr. Arihant Samdaria for Mr. Sunil Samdaria

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

06/07/2026

1. Order impugned dated 06.03.2025 passed by Civil Judge & Judicial Magistrate South, Jaipur Metropolitan-I in Civil Suit No.484/2002 titled as 'Premprakash Sharma Vs. Rajendra Sharma & Anr.', is common in both the writ petitions, hence, with the consent of counsel for both parties, both the writ petitions have been heard together and would stand decided by this common order.

2. Petitioner is plaintiff and respondent Nos.1 & 2 are defendants in the present suit. It is noteworthy that respondents No.1 & 2 have also filed an another civil suit against petitioner bearing No.485/2002 which is consolidated with the petitioner's Suit No.484/2002. Both suits are in respect of claiming permanent injunction against each other on the ground of use, occupation and possession of the shop in question bearing Shop No.272, Tripolia Bazaar, Jaipur. Shop happens to be in tenancy since time of forefathers of parties from the Devasthan Department. Devasthan Department is party respondent No.3 herein.

3. In S.B. Civil Writ Petition No.4040/2025, petitioner-plaintiff is aggrieved by dismissal of his application under Order 7 Rule 14 (3) CPC dated 11.09.2024, filed by him to produce certain documents in rebuttal at the stage of defendants' evidence.

4. In S.B. Civil Writ Petition No.4046/2025, petitioner-plaintiff is aggrieved by allowing two separate applications filed by defendant No.1 under Order 8 Rule 1-A (3) CPC, permitting to produce documentary evidence at the stage of defendants' evidence.

5. Having heard counsel for both parties and from perusal of the record including the impugned order, what transpires to this Court is that the present suit along with the consolidated suit, filed by respondent Nos.1 & 2, are pending before the trial Court since 2002 and have reached to the stage of final hearing. Counsel for both parties state that today is the date fixed before the trial Court for final arguments in both the suits.

6. As has been noted hereinabove, both parties are real brothers being three sons of late Shri Radheyshyam Sharma, who happens to be tenant in the shop in question of Devasthan Department. The dispute as to use, occupation and possession of the disputed shop appears to have arose between parties after death of their father. Both parties have filed two separate civil suits against each other praying to grant permanent injunction stating *inter alia* that their father made respective Wills in their favour and based on the Wills, claimed possession over the suit shop.

7. Indisputedly, petitioner-plaintiff's evidence had concluded way back in the year 2019. Suit was pending at the stage of defendants' evidence. At this stage, with the indulgence of High Court in previous two writ petitions being S.B. Civil Writ Petition No.17656/2024 and 17670/2024, vide two orders of even dated 22.11.2024, Devasthan Department has also been added as defendant No.3 in both the suits.

8. In S.B. Civil Writ Petition No. 4046/2025, it appears that defendant No.1 produced certain receipts of receiving rent of the shop in question by Devasthan Department along with other documents and sought to produce these documents during course of their evidence by moving two separate applications under Order 8 Rule 1-A (3) CPC. Both applications, taking into consideration the nature of documents, stage and the controversy involved therein, have been allowed by the trial Court vide impugned order. Trial Court, has recorded its satisfaction about filing of this document belated and granted leave to take these documents. The discretionary powers exercised by the trial Court to grant leave for taking the documents, produced by defendant No.1 on record, has been exercised after due application of mind and assigning the reasons. Therefore, this court in exercise of supervisory jurisdiction under Article 227 of the Constitution of India does not find any reason or ground to grant indulgence in such order to this extent.

9. Hence, S.B. Civil Writ Petition No.4046/2025, filed by petitioner-plaintiff raising objection to grant leave for taking the documents of defendant on record, is hereby **dismissed**.

10. As far as S.B. Civil Writ Petition No.4040/2025 is concerned, the contention of counsel for petitioner/plaintiff is that the documents, mentioned in the order impugned from Serial No.1 to 9 are documents of rebuttal to the documents for which leave has been granted by the trial Court to defendant to produce his documents. Firstly, petitioner has not placed on record the copies of these documents nor counsel for petitioner, is in position to show these documents to the Court. His submission is that

photocopies of documents have been produced before the trial Court along with the application.

11. Be that as it may, from the list of documents as incorporated in the order impugned, it appears that few documents are much prior to the order passed in year 2019. In respect of these documents, petitioner has not assigned a reason fro the namesake, for not producing these documents on record during course of his evidence, which are closed and concluded in the year 2019. Further, in respect of other documents, which are post-period, it has been sought to be argued that these documents includes the stand of Devasthan Department to show that on account of pending dispute, Devasthan Department declined to receive rent. Hence, on that basis, petitioner-plaintiff wants to show and establish that the receipts of rent, produced by defendants are false or fabricated.

In this respect, this Court finds that Devasthan Department itself has been made party in the present suit as defendant No.3. Devasthan Department has also submitted its stand before the trial Court. Even for the application filed by plaintiff under Order 7 Rule 14 (3) CPC, reply was filed by Devasthan Department. Hence, in view of the fact that the suit is pending since 2002 and now has arrived at the stage of final hearing, instead of granting permission to petitioner-plaintiff to produce documents, sought to be placed on record along with application under Order 7 Rule 14 (3) CPC at the stage of defendants' evidence, this Court deems it just and proper to grant a liberty to the petitioner-plaintiff to produce these documents at the stage of first appeal, in case, the trial Court passes judgment against the petitioner, more

particularly, placing reliance upon the documents produced by defendants. For such reasons, this Court is not inclined to grant indulgence in respect of dismissing the application of petitioner under Order 7 Rule 14 (3) CPC at this stage, nevertheless grants liberty to move application afresh and make a prayer before the First Appellate Court, in case need arises to produce and take these documents, if so desire.

12. In this view, the S.B. Civil Writ Petition No.4046/2025 stands **disposed of** with aforesaid liberty.

13. All pending application(s), if any, stand(s) disposed of.

(SUDESH BANSAL),J

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