


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5373/2026

Harinarayan S/o Rameshwar Lal, Aged About 71 Years, R/o Plot No. 5, New Colony, Kalwar Road, Jaipur

----Petitioner/Defendant No. 03/Applicant

Versus

1. M/s. Mahalaxmi Minerals (Partnership Firm), Registered No. 1511/1978 Registered Officer, Tripolia Bazar, Thandi Pyau, Jaipur, Through Authorised Partner Shri Mahipal Choudhary, S/o Shri Rampal Choudhary, R/o Badawali Dhani, Gram Dhodhsar, Via Govindgarh, Tehsil Chomu, District Jaipur.

---Respondent/Plaintiff/Non-Applicant

2. Anil Kumar S/o Kanhaiya Lal, R/o Gram Samod, Tehsil Chomu, District Jaipur

3. Manoj Kumar S/o Dulariram, R/o Plot No. 1, Sindhi Colony, Kalwar Road, Jhotwara, Jaipur

4. State Of Rajasthan, Through Land Holder, Tehsildar, Chomu, District Jaipur

5. Sub-Divisional Officer, Tehsil Chomu, District Jaipur Address Near New Court Building, Jaipur Road, Town Chomu, District Jaipur.

6. District Collector, Collectorate Premises, Banipark, Jaipur

----Proforma Respondents

For Petitioner(s) : Mr. Ramit Pareek

For Respondent(s) : Ms. Anubha Singh
Mr. Dinesh Sihag

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

24/03/2026

1. The present writ petition has been filed assailing the order dated 05.03.2026, passed by learned Senior Civil Judge, Chomu Jaipur, District Jaipur, in Case No. 03/2026, whereby the application filed by defendant No.3-petitioner under Order 6 Rule

17 read with Section 151 CPC seeking amendment in the reply filed by him, has been rejected.

2. Shorn of the facts, the present petitioner is the defendant in the suit proceeding. In the suit an application bearing No. 97/2025 under Section 151 CPC came to be filed by the plaintiff-respondent on 28.10.2025 seeking restoration of the disputed way. The petitioner-defendant filed a reply to the said application on 08.12.2025. Thereafter, the petitioner-defendant filed a detailed written statement along with a counterclaim on 18.12.2025. Subsequently, after a lapse of more than one and a half months, the petitioner filed an application under Order 6 Rule 17 CPC on 06.02.2026, seeking permission to amend the reply dated 08.12.2025 filed in response to the application under Section 151 CPC. The said application was rejected by the learned Trial Court vide the impugned order dated 05.03.2026.

3. Learned counsel for the petitioner submits that the learned Trial Court has committed material illegality and perversity in rejecting the application for amendment.

4. Learned counsel further submits that although all objections had already been raised in the written statement along with the counterclaim filed on 18.12.2025, the petitioner apprehends that while deciding the application under Section 151 CPC, the Court may not consider the facts brought on record through the written statement and counterclaim. Instead, it may decide the respondent's application solely on the basis of the reply dated 08.12.2025.

5. Therefore, he prays that the impugned order be set aside and the petitioner be permitted to amend his reply.

6. Per contra, learned counsel for the respondent does not dispute that all the facts which the petitioner seeks to incorporate in the reply to the application under Section 151 CPC have already been pleaded in the written statement along with the counterclaim filed by the petitioner.

7. Learned counsel for the respondent submits that while deciding an application under Section 151 CPC, there is no impediment for the Court to consider the written statement as well as the counterclaim.

8. Heard learned counsel for the parties and perused the material available on record.

9. On perusal of the record, this Court deems it appropriate to direct that while deciding the application under Section 151 CPC filed by the respondent, the learned Trial Court shall take into consideration the reply dated 08.12.2025 as well as the additional facts raised by the petitioner in the written statement along with the counterclaim. It is further directed that the learned Trial Court shall decide the said application under Section 151 CPC within a period of 30 days from the date of receipt of a certified copy of this order.

10. Accordingly, the present writ petition stands disposed of.

11. Pending application(s), if any, stand disposed of.

(BIPIN GUPTA),J