

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 6263/2026

1. Sita Widow Of Ramnarayan, R/o Alanpur (Deceased)
1/1. Yuvraj Saini S/o Sitaram, Aged About 36 Years, R/o
Warehouse Colony, Bajariya, Sawai Madhopur (Raj.).
Adopted Son Of Late Ramnarayan R/o Alanpur.
2. Chandan Singh S/o Kan Singh, Aged About 61 Years, R/o-
120, Hanuman Nagar, Housing Board, Sawai Madhopur
(Raj.)

----Petitioners

Versus

1. Deepak Kumar, Son Of Girraj Prasad
2. Vimal Kumar, Son Of Girraj Prasad,
Both Residents Of Village Chhatrapura, Tehsil Indragarh,
District Bundi.
3. Anokhi, Daughter Of Ramnarayan, Wife Of Sitaram,
Resident Of Alanpur, Currently Warehouse Colony,
Bajaria, Sawai Madhopur
4. Kanti Daughter Of Ramnarayan, Wife Of Kailash, Resident
Of Alanpur.
5. Savitri, Daughter Of Ramnarayan, Wife Of Devnarayan,
Resident Of Alanpur, Currently Chhatrapura, Tehsil
Indragarh, District Bundi.
6. Dhapu, Daughter Of Ramnarayan, Wife Of Radheshyam,
Resident Of Alanpur, Currently Dei, Tehsil Dei, District
Bundi.
7. Municipality Of Sawai Madhopur, Through The Executive
Officer, Sawai Madhopur.

----Respondents

For Petitioner(s) : Mr. D. D. Khandelwal

For Respondent(s) :

HON'BLE MR. JUSTICE MANEESH SHARMA

Order

07/05/2026

1. The present writ petition has been preferred by the petitioners assailing the impugned order dated 09.02.2026 as well as the subsequent amendment order dated 26.02.2026 passed by the learned Senior Civil Judge and Chief Judicial Magistrate, Sawai Madhopur, in Civil Suit No. 05/2023, titled as '*Deepak & Anr. Vs.*

Sita & Ors.’, whereby the application filed by respondents was allowed, and a direction was issued that the agreement dated 28.11.2002 be impounded and sent to the Collector (Stamp), Jaipur, for valuation.

2. Brief facts giving rise to the present writ petition are that the plaintiffs/respondents No.1 and 2 filed a suit for partition and permanent injunction, on the ground that the suit property is jointly owned by the plaintiffs and defendant nos. 1 to 5, having 1/6th share each. It was alleged that the defendant nos. 1 to 5, in collusion with each other, filed an application before the Additional District Magistrate, Sawai Madhopur, for construction of a colony on the suit land. It was further alleged that the partition of the suit land has not been carried out yet and thus, the defendants have no right to carve out any colony or construction over the land in question. Accordingly, the suit for the partition and permanent injunction was filed.

3. The defendant/petitioner no. 1/1 filed a written statement and denied the averments of the plaint and further asserted the right of the petitioner No.2 - *Chandan Singh* over the suit property, on the basis of an agreement dated 28.11.2012 executed by one *Girraj Prasad* and therefore, prayed for dismissal of the suit.

4. During pendency of the case, the petitioner No.2 moved an application under Section 45 of the Indian Evidence Act, 1872, stating that the petitioner No.2 is the owner of the suit property by virtue of an agreement dated 28.11.2002 (correct date 28.11.2012) and since *Girraj Prasad* and the plaintiffs themselves

have denied their signature on the alleged agreement and filed an affidavit to this effect before the Court. Therefore, prayed that a specimen signature of *Girraj Prasad* may be obtained from the agreement as well as the plaint/*vakalatnama* and the same maybe examined by the signature expert.

5. While the application under Section 45 of the Indian Evidence Act, 1872 was pending, the plaintiff/respondents filed an objection application under the Indian Stamp Act, 1899 and the Registration Act, 1908, contending that the alleged agreement dated 28.11.2002 (correct date 28.11.2012) is not admissible in evidence as the same is not properly stamped and not duly registered. Accordingly, prayed that the said agreement may be held inadmissible in evidence.

6. Thereafter, the petitioner No. 1 filed a reply to the objection application of the plaintiff/respondents and denied the allegations made therein. It was stated that the alleged agreement dated 28.11.2002 (correct date 28.11.2012) is not forged or fabricated, rather the same has been executed with the consent of the parties and the present application has been filed just to delay the disposal of the application under Section 45 of the Indian Evidence Act, 1872. Therefore, the application filed by the plaintiff/respondent is baseless and invalid, accordingly, prayed for rejection of the same.

7. After considering the pleadings of the parties, the learned Trial Court allowed the application filed by the plaintiffs/respondents No.1 & 2, and directed to impound the agreement dated 28.11.2002 (correct date 28.11.2012) and send

it to the Collector (Stamp), Jaipur, for determination of the requisite stamp duty.

8. Aggrieved by which, the petitioners has preferred the present writ petition.

9. Learned counsel for the petitioners submits that the learned court below seriously erred in allowing the application filed by the respondents. He further submits that such an application can be entertained only at the stage of evidence, and not prior thereto; thus, prays that the impugned order dated 09.02.2026, being perverse, may kindly be set aside.

10. In order to support his contentions, he relies upon a judgment passed by this Court in **Ramesh Chand & Ors. Vs. Kailash Chand Goyal & Anr.**¹.

11. Heard the submissions advanced by learned counsel for the petitioner and perused the material available on record.

12. From a bare perusal of the record, it is evident that the plaintiff/respondent filed an application under the Indian Stamp Act, 1899 and the Registration Act, 1908, on the ground that since the document in question, i.e., the agreement dated 28.11.2002 (correct date 28.11.2012), is neither properly stamped nor duly registered, therefore, the same is inadmissible in evidence. The learned Trial Court, after considering the submissions of both the parties and also considering that the agreement is not sufficiently stamped, passed an order dated 09.02.2026, directing that the agreement dated 28.11.2002 (correct date 28.11.2012) be

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impounded and sent to the Collector (Stamp) for determination of the proper stamp duty.

13. It is a settled principle of law that whenever any document is produced before a Court, or it comes to the notice of the Court that the document so produced on record is not duly stamped, it is the duty of the Court to impound the document and send the same to the Competent Authority for proper stamping.

14. The Division Bench of this Court, in the case of **Sanjeev Bhardwaj and Ors. Vs. Yogeshwar Swaroop Bhatnagar and Ors.**², has held as under:-

"37. In the light of the discussion aforesaid, the third question whether on production of unstamped document, the Court is duty bound to determine the stamp fee along with penalty, as per Section 35(1) of the Act or to impound the same under Section 33 of the Act and send the same to the Collector for determination of stamp duty and penalty in order to make the document admissible, is answered in the terms that if any instrument is presented before the Court, which is not duly stamped or insufficiently stamped, the Court is duty bound to impound the same and; (i) if the party who produces such instrument in evidence is willing to pay the stamp duty or deficit stamp duty together with amount of penalty, to determine the same and upon deposit of the amount, so determined, with the Court, it shall be open for the Court to admit the instrument in evidence, or; (ii) in the event, however, the party which produces such instrument does not agree or is unable to remit the amount of stamp duty/deficit stamp duty and the penalty, the Court shall send the impounded instrument to Collector for determination of stamp duty and penalty, which shall be, only upon production/receipt of the certificate/endorsement of deposit thereof, received in evidence"

15. Considering the totality of the facts and circumstances of the case, and taking note of the fact that the document in question was found to be insufficiently stamped and has accordingly been referred to the Collector (Stamp) for determination of the proper stamp duty and payment of the deficient stamp duty, penalty etc.; the impugned order appears to be in accordance with the provisions of Sections 33 and 35 of the Indian Stamp Act, 1899 and therefore, cannot be said to be perverse.

16. Furthermore, the learned counsel for the petitioner has failed to demonstrate as to how the impugned order has caused prejudice to the rights of the petitioners as his application under Section 45 of the Indian Evidence Act is still pending and even after payment of the deficient stamp duty, the document is always admitted in evidenced subject to proof of its execution and proof; therefore, the arguments advanced by the learned counsel cannot be accepted.

17. So far as the judgment relied upon by learned counsel in the matter of **Ramesh Chand** (supra), is concerned, even though there is no quarrel on the legal principle laid down therein, the issue involved in the said case stands on a different footing; and the same is distinguishable on facts.

18. In that view of the matter, this Court is of the considered opinion that the impugned order dated 09.02.2026 does not suffer from any jurisdictional error, illegality, perversity, or legal infirmity so as to warrant any interference by this Court under the powers conferred by Article 227 of the Constitution of India.

19. Accordingly, the present writ petition fails and is hereby dismissed.

20. All other pending application(s), if any, shall stand disposed of.

(MANEESH SHARMA),J