

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 6429/2024

Brij Bhushan Ojha S/o Late Sh. Bajrang Lal Ojha, Aged About 67
Years, Resident Of Plot No. 21, Sita Bari Tonk Road, Jaipur
(Rajasthan)

-----Petitioner

Versus

1.

Bhanwar Lal Lakshkar S/o Ram Swroop, Resident Plot No.
18-A, Sita Bari, Tonk Road, Jaipur (Rajasthan)
2.

Nagar Nigam Through Mayor, Nagar Nigam Head Office
Lal Khothi, Tonk Road, Jaipur (Rajasthan)
3.

Jaipur Development Authority, Jaipur Through Secretary
Jawahar Lal Nehru Marg, Jaipur (Rajasthan)

-----Respondents

For Petitioner(s)	:	Mr. Mukesh Kumar Agarwal Mr. B.B. Ojha
For Respondent(s)	:	Mr. Rishi Raj Maheshwari Mr. Arjun Lal Khatik Ms. Abhilasha Sharma

HON'BLE MR. JUSTICE BIPIN GUPTA
Judgment / Order

18/03/2026

1.

The present writ petition has been filed assailing the order
dated 01.03.2024, passed by learned Metropolitan Magistrate, No.
18, Jaipur Metropolitan-I, Civil Suit No. 138/2020, whereby the
application filed by the plaintiff-petitioner under Order XI Rule 14
CPC has been dismissed.
2.

Learned counsel for the petitioner submits that the petitioner
had called upon the defendant to discover and place on record the
letter dated 26.04.2020, a scanned copy of which was allegedly
sent to the plaintiff-petitioner through WhatsApp by the
defendant- respondent.

3. Learned counsel for the petitioner further submits that the factum of sending the said reply has been admitted by the defendant in his reply. It is specifically stated in paragraph 7 of the reply filed by the defendant–respondent that the reply to the notice had been sent via WhatsApp and was received on WhatsApp.

4. Learned counsel for the petitioner, therefore, contends that once the existence of the document has been admitted, a direction ought to have been issued to the defendant to place the said document on record and to file an affidavit in that regard. It is only thereafter, in case of denial of possession, that appropriate orders could have been passed. He submits that the learned Trial Court has committed an illegality in rejecting the application under Order XI Rule 14 CPC.

5. Per contra, learned counsel for the respondent supports the order passed by the learned Trial Court; however, he is unable to refute the averments made in paragraph 7 of the reply filed by the defendant. Upon being queried regarding the factum of the reply relied upon in his defence in paragraph 7, no satisfactory explanation has been furnished.

6. Learned counsel for the respondent, upon instructions, submits that his client has stated that the said document is not in his possession and, therefore, cannot be produced.

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

8. This Court finds that the existence of the document has not been disputed by the defendant; rather, it has been admitted that a reply was sent through WhatsApp. In such circumstances, the

learned Trial Court ought to have directed the defendant to produce the document. In the event of failure to do so, the learned Trial Court ought to have proceeded in accordance with law, including, if necessary, granting permission for leading secondary evidence.

9. This Court further finds that the learned Trial Court has not decided the application in accordance with law. Although ordinarily the matter would be remanded to the learned Trial Court, however in the present case, the defendant has categorically stated that the document is not in his possession and cannot be produced. Therefore, instead of remanding the matter, this Court deems it appropriate to grant liberty to the plaintiff-petitioner to avail appropriate remedies in accordance with law taking into consideration that document is not in possession of the defendant.

10. With the above observations, the present civil writ petition stands disposed of.

11. All pending applications stand disposed of.

(BIPIN GUPTA),J