

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Application No. 64/2023

Smt. Shanti Devi W/o Late Bhagwan Das & Ors.

-----Petitioners

Versus

Rajesh Sharma S/o Shri Kishangopal Sharma, & Anr.

-----Respondents

For Petitioner(s)	:	Ms. Pradeep Lata Mathur
For Respondent(s)	:	

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

16/08/2023

1. Learned counsel for applicants states that notices upon non-applicants respondents-decree holders have been served.
2. Office may check and report in respect of services of respondents.
3. Learned counsel for applicants states that a decree for specific performance in respect of two shops in question situated at Ajmer was passed against the defendant Shri Bhagwan Das vide judgment and decree dated 30.10.2012 by the Court of Additional District Judge and Sessions Judge (Fast Track) No.2, Ajmer and thereagainst, the defendant preferred SB Civil First Appeal No.709/2012. The execution of judgment and decree was stayed in the first appeal vide order dated 15.12.2012, however since during the course of first appeal, the defendant appellant-Bhagwan Das passed away and none of the legal representatives came on record, this Court vide order dated 07.03.2022 dismissed

the first appeal as abated consequently, the interim stay order has also come to an end.

4. It has been pointed out that applicants are the widow, sons and daughters of deceased defendant Bhagwan Das who are in possession of both shops in question and were not aware about proceedings of the appeal, however after receiving notices of execution proceedings, applicants have filed the instant application for their impleadment in place of deceased defendant appellant as well as for setting aside the abatement. Miscellaneous Application to condone the delay has also been filed.

5. It has been stated that before the Executing Court draft of sale deed has been produced and the balance sale consideration pursuant to the impugned judgment and decree dated 30.10.2012 has also been deposited by the decree holders.

6. In view of matter, as an interim measure, this Court deems it just and proper to stay the execution of impugned judgment and decree dated 30.10.2012.

7. Let the matter be listed on 14.09.2023.

(SUDESH BANSAL),J