

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 6772/2026

Salim Mohammad Son Of Fateh Mohammad Leelgar, Aged About 58 Years, Resident Of Ward No.1, New Roshanganj, Jamidaran Ka Kabristan Ke Paas, Sikar, Tehsil And District Sikar (Raj.).

----Petitioner

Versus

Abdul Sattar Son Of Hazi Lal Mohammad Bhati, Aged About 54 Years, Resident Of Ward No.3 Naya Khatikan Pyau Ke Paas, Fatehpur Road, Sikar, Tehsil And District Sikar (Raj.).

----Respondent

For Petitioner(s)	:	Mr. Shailendra Singh Balwada
For Respondent(s)	:	Mr. Shubham Bhargava

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

20/05/2026

1. The present writ petition has been filed assailing the order dated 11.03.2026, passed by learned Additional District and Session Judge, No.4, Sikar, in Civil Suit C.I.S. No. 78/2018, whereby the application dated 10.03.2026 filed by the defendant-petitioner seeking one last opportunity to lead evidence was rejected and the evidence of the defendant was closed.
2. The brief facts of the case are that the plaintiff-respondent instituted a civil suit for specific performance of contract, recovery of possession, and permanent injunction against the defendant-petitioner. The plaintiff-respondent had concluded his evidence on 26.05.2025, and the matter was thereafter fixed for the defendant-petitioner's evidence on 31.05.2025. However, the defendant-petitioner could not lead his evidence on the said date.

2.1 Thereafter, the defendant-petitioner moved an application on 10.03.2026 seeking permission to lead his evidence through his wife, as the petitioner was unable to appear due to medical ailments. It was further prayed that a future date be fixed after the festival of *Eid*, as the petitioner's wife was at her parental home and was also observing the fasts of *Ramzan (Roza)*.

2.2 After hearing both parties, the learned trial Court dismissed the said application vide order dated 11.03.2026 and closed the evidence of the defendant.

3 Being aggrieved by the order dated 11.03.2026, the defendant-petitioner has preferred the present writ petition before this Hon'ble Court.

4. Learned counsel for the petitioner submits that the learned trial Court has failed to appreciate the provisions of Order 18 Rule 2 CPC, which confer a right upon the defendant to lead evidence in support of his defence. He further submits that denial of an opportunity to the defendant-petitioner to adduce evidence would result in grave prejudice and miscarriage of justice.

4.1 Learned counsel for the petitioner contends that the learned trial Court ought to have granted the defendant-petitioner an opportunity to lead evidence in the interest of justice, and even if the Court was of the view that any inconvenience was being caused to the plaintiff-respondent, the same could have been compensated by imposition of costs.

4.2 Learned counsel for the petitioner, therefore, prays that the present writ petition be allowed, the order dated 11.03.2026 be quashed and set aside, and the defendant-petitioner be permitted to lead his evidence before the learned trial Court.

5 Learned counsel for the respondent, appearing on caveat, opposes the contentions raised by learned counsel for the defendant-petitioner and prays that the present writ petition be dismissed and the order dated 11.03.2026 be upheld.

6. Heard and perused the material available on record.

6.1 This Court finds that despite repeated opportunities granted since 31.05.2025, the defendant-petitioner failed to produce his evidence or even file the affidavits of his witnesses. The learned trial Court had already granted two final opportunities in the interest of justice; however, the defendant-petitioner continued to seek adjournments on one pretext or another, thereby delaying the proceedings.

6.2 This Court is conscious of the fact that the suit is one for specific performance of contract, wherein valuable civil rights of both parties are involved. While the defendant-petitioner has a substantive right to contest the suit by leading evidence, such right cannot be declined only in garb of expeditious disposal of civil trials. If the defendant-petitioner is not granted an opportunity to adduce evidence, it may result in serious prejudice to his defence; however, at the same time, the right to lead evidence is not absolute and is subject to reasonable regulation by the Court to prevent abuse of process and delay in adjudication.

6.3 Balancing the interest of justice between the parties, this Court deems it appropriate to grant one last opportunity to the defendant-petitioner to produce two witnesses, including himself, by filing their affidavits or before 25.05.2026 before the learned trial Court, subject to payment of costs of Rs. 10,000/- to the plaintiff-respondent.

6.4 It is further directed that upon filing of the affidavits on or before 25.05.2026, the learned trial Court shall proceed with the cross-examination of the witnesses at the earliest possible convenience, without granting any unnecessary adjournment to either party. The plaintiff-respondent shall ensure that his witnesses remain present for cross-examination on the dates so fixed, and no further opportunity or adjournment shall be granted except in exceptional circumstances to be recorded in writing.

6.5 With the aforesaid observations, the present Civil Writ Petition stands disposed of.

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

(BIPIN GUPTA),J