

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 7915/2025

Shivkant Son Of Shri Babu Lal, Aged About 48 Years, Resident Of
Bhusawar Darwaja, Kasba Weir, Tehsil Weir, District Bharatpur
(Raj.)

----Petitioner

Versus

1. Babulal Son Of Shri Lachchhiram Navira Prasadi, Aged About 74 Years, Resident Of Bhusawar Darwaja, Town Weir, Rangey Raghav Colony, Weir, District Bharatpur (Raj.)
2. Rajiv Tiwari Son Of Shri Babulal, Aged About 42 Years, Resident Of Bhusawar Darwaja, Town Weir, Rangey Raghav Colony, Weir, District Bharatpur (Raj.)
3. Ganesh Prasad Meena Son Of Shri Ramphal, Aged About 64 Years, Resident Of Village Jagjivanpur, Tehsil Weir, District Bharatpur (Raj.)
4. Ramakant Son Of Shri Babulal, Aged About 50 Years, Resident Of Bhusawar Darwaja, Town Weir, Rangey Raghav Colony, Tehsil Weir, District Bharatpur (Raj.)
5. Manorama Daughter Of Shri Babulal Wife Of Shrii Rammohan, Resident Of At Present P.no. 184/119, Sector No. 18, Pratap Nagar, Jaipur.
6. Rekha Daughter Of Shri Babulal Wife Of Shri Omprakash, Resident Of Village Samraya, Resident Of At Present P.no. 184/119, Sector No. 18, Pratap Nagar, Jaipur (Raj.)
7. Sub Registrar Cum Tehsildar, Weir, Bharatpur (Raj.)

----Respondents

For Petitioner(s)	:	Mr. Kailash Chand Katara
For Respondent(s)	:	Ms. Praveshika Singh for Mr. V.D. Gathala, A.G.C. Mr. Ankit Kumar with Mr. Tapeswar Pal Singh Parmar Mr. Ankit Agrawal Mr. Manender Singh Mr. Ram Mohan Sharma

HON'BLE MR. JUSTICE BIPIN GUPTA
Judgment / Order

24/02/2026

1. The present writ petition has been filed assailing the order dated 05.05.2025, passed by learned Additional District Judge,

Weir, District Bharatpur, whereby in the suit for declaration of a sale deed as 'null and void', learned trial Court has directed the plaintiff petitioner to pay the Court fees as per Section 38 of the Rajasthan Court Fees and Suit Valuation Act, 1961 (hereinafter referred as to the 'Act of 1961') for cancellation of the sale deed.

2. Learned counsel for the petitioner submits the he has not prayed for cancellation of sale deed as he was not party to the instrument but he has only claimed the relief of declaration of the sale deed to be 'null and void' to the extent of his right. He further submits that he has valued the suit at the rate of Rs.5,00,000/- and it is within the sole domain of the plaintiff to determine the valuation of the suit and accordingly, he had paid the Court Fees of Rs. 310/- in terms of Section 45 Act of 1961.

3. Per contra, learned Counsel for the respondents submits that even if the suit is not for cancellation of the sale deed and is for declaration of the document to be 'null and void' against the right of a person even then Court Fees ought to have been paid on the valuation of the suit. He further submits that the petitioner has only paid the Court Fees of Rs.300/- in spite of valuation of the suit of being Rs.5,00,000/-.

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

5. This Court finds that the learned Trial Court committed an illegality in passing the impugned order dated 05.05.2024 by directing the petitioner–plaintiff to pay court fees under Section 38 of the Court Fees Act. This Court observes that the only relief sought in the suit was a declaration that the disputed sale deed be declared 'null and void' to the extent of the plaintiff's rights.

6. This Court further finds that the plaintiff was not a party to the said instrument; therefore, there was no requirement for the plaintiff to seek cancellation of the sale deed or to pay court fees applicable to cancellation. The relief claimed falls within the ambit of declaratory relief under the Specific Relief Act, and the plaintiff was only required to seek a declaration that the sale deed is 'null and void' insofar as it affects his rights.

7. Accordingly, this Court holds that the learned Trial Court erred in directing the petitioner to pay court fees by applying Section 38 of the Act of 1961.

8. However, this Court also finds that the plaintiff has valued the suit at Rs. 5,00,000/-. Therefore, it was incumbent upon the plaintiff to pay court fees on the said valuation amount. In view of the above, this Court deems it appropriate to grant liberty to the plaintiff to pay court fees on Rs. 5,00,000/-.

9. If the requisite court fees on Rs. 5,00,000/- are paid, the suit shall proceed in accordance with law. In the event the court fees are not paid on the said amount, the learned Trial Court shall proceed further in accordance with law.

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

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

(BIPIN GUPTA),J