

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

S.B. Civil Writ Petition No. 12793/2025

1. Smt. Prameela Bhandari W/o Lt. Sh. Mahendra Ji Bhandari, Aged About 61 Years, R/o 13, Krishna Colony, Gayatri Nagar, Near Keshav Nain, Beawar, Dist. Ajmer.
2. Akash Bhandari S/o Lt. Sh. Mahendra Ji Bhandari, Aged About 28 Years, R/o 13, Krishna Colony, Gayatri Nagar, Near Keshav Nain, Beawar, Dist. Ajmer.
3. Smt. Ronita Chopra D/o Lt. Sh. Mahendra Ji Bhandari W/o Shri Prateek Chopra, Aged About 34 Years, R/o 601, Ramdev Darshan Panchratan Complex 150 Feeta Road Bhayandar West, Meena- Bhayandar, Mumbai (Maharastra)- 401101

----Petitioners/Plaintiffs

Versus

1. Smt. Raksha Bhandari W/o Late Shri Mahaveer Singh Bhandari, (Deceased)
2. Shri Surendra Bhandari S/o Late Shri Mahaveer Singh Bhandari, R/o Sendra Road, Krishna Kunj Near Gangaur Hotel, Beawar, Dist. Ajmer
3. Shri Narendra Bhandari S/o Late Shri Mahaveer Singh Bhandari, R/o Sendra Road, Krishna Kunj Near Gangaur Hotel, Beawar, Dist. Ajmer
4. Miss Mamta Bhandari D/o Late Shri Mahaveer Singh Bhandari, R/o Sendra Road, Krishna Kunj Near Gangaur Hotel, Beawar, Dist. Ajmer
5. Smt. Alka D/o Late Shri Mahaveer Singh Bhandari W/o Shri Ravi Mehta, R/o Veer Durgadas Nagar, Pali Dist. Pali

Defendants/Respondents

6. Sub Registrar Office, Beawar
7. District Collector, Ajmer.

----Defendants/Proforma Respondents

For Petitioner(s) : Ms. Shikha Parnami
For Respondent(s) :

HON'BLE MR. JUSTICE BIPIN GUPTA
Judgment / Order

18/03/2026

1. The present writ petition has been filed assailing the order dated 28.01.2025, passed by the learned Additional District Judge No. 2, Beawar, District Ajmer, whereby the application under Order

VIII Rule 9 CPC seeking permission for the plaintiff-petitioner to file a rejoinder to the reply of defendant No. 3 has been rejected.

2. Learned counsel for the plaintiff-petitioner submits that the plaintiff had filed a suit for partition. In the written statement, the defendants set up a will and made assertions regarding the same in Paragraph Nos. 4 and 16.

3. Learned counsel for the petitioner further submits that the fact of the will constitutes a new plea, which was not part of the original plaint. Therefore, it is necessary for the plaintiff-petitioner to file a rejoinder to address the said new plea raised by the defendants.

5. He further submits that the rejoinder is confined only to Paragraph Nos. 4 and 16 of the written statement, as stated in Paragraph No. 4 of the rejoinder.

6. Heard.

7. Despite service, no one appears on behalf of the respondents to oppose the present writ petition. Accordingly, the matter is being decided ex parte.

8. Upon perusal of the record, it is evident that the plaintiff-petitioner had filed a suit for partition and there was no reference to any will in the plaint. The defendants, however, raised a defence based on a will allegedly in their favour and contended that the suit is liable to be dismissed on that basis. To counter this new plea, the plaintiff-petitioner sought permission to file a rejoinder confined to Paragraph Nos. 4 and 16 of the written statement.

9. This Court finds that the learned Trial Court, while passing the impugned order, observed that the relevant facts were already

pleaded in the plaint. However, no such facts are found in the plaint. Since the plea regarding the will is a new fact introduced by the defendants, the plaintiff-petitioner is entitled to file a rejoinder to the said plea.

10. Therefore, the impugned order is perverse and contrary to the settled principles of law and is, therefore, quashed and set aside. The petitioner's rejoinder, confined to Paragraph Nos. 4 and 16, as stated in Paragraph No. 4 of the rejoinder, is permitted to be taken on record.

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

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

(BIPIN GUPTA),J