

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 15818/2025

Dilip Kumar Balig, S/o Late Shri Prabhu Dayal, Aged About 67 Years, R/o 7/107 New No. 11, Kishanganj, Beawar, District Ajmer (Rajasthan)

-----Petitioner

Versus

1. Shri Jagdish Prasad Balig S/o Late Shri Prabhu Dayal, R/o 252/8 Govindram Ji Ka Rasta Chotha Chauraha Bhartiya Vidhya Mandir, Hari Shankar Tiwar Ka Makan, Jaipur. (Deceased) In His Place, The Following Legal Heirs As Per The Order Of The Honble Court Dated 21.5.2013-
 - 1/1 Hemant Sharma S/o Late Shri Jagdish Prasad Balig, R/o House No. 51 B, Ganesh Nagar Nivaru Road, Jaipur. Presently R/o House No. 1 Hanuman Enclave, Ganga Vihar, Sirsi Road, Jaipur.
 2. Smt. Sakuntala Devi Balig, D/o Late Shri Prabhu Dayal Ji, W/o Shri Moolchand Ji, R/o In Front Of Tamra Charitable Trust Dharamshala, Bhajanganj Ajmer. (Deceased) In His Place, The Following Legal Heirs As Per The Order Of The Honble Court Dated 7.8.2019
 - 2/1 Shri Kishan Kumar Sharma, S/o Late Shri Moolchand Ji, R/o House No. 527/28, Bhajanganj, Near Tamra House, Ajmer.
 - 2/2 Smt Durgesh Nandani, W/o Shri Sudesh Ji Sharma, R/o House No. 52, Navjevan Society, Abu Highway, Palanpur A, Gujrat. Presently R/o B-802, Pearl 167, Canal Road, Near Shilaj Cross Road, Ahemdabad, Gujrat-380058.
 - 2/3 Smt Manju Sharma, W/o Shri Rajesh Ji Sharma, R/o Block No. 98 F, Railway Quarters Boriwali Railway Station, Behind Kasturba Police Station, Boriwali, Mumbai, Maharastra.
 3. Smt Vimla Devi Balig, D/o Late Shri Prabhu Dayal Ji, W/o Shri Ved Prakash Ji, R/o A-169, Govind Marg, Mahesh Nagar, 80 Feet Road, Jaipur (Rajasthan)
 4. Shri Purusuttam Balig S/o Late Shri Chunnilal Jangid, R/o 7/107 New No. 11, Kishanganj, Beawar, District Ajmer (Rajasthan). (Deceased) In His Place, The Following Legal

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- 4/1 Smt. Sarla Devi W/o Late Shri Purusuttam Das Sharma, R/o 7/107 New No. 11, Kishanganj, Near Aabkari Office, Byawar, District Ajmer.
- 4/2 Shri Mukesh S/o Late Shri Purusuttam Das Sharma, R/o 7/107 New No. 11, Kishanganj, Near Aabkari Office, Byawar, District Ajmer.
- 4/3 Shri Rajesh S/o Late Shri Purusuttam Das Sharma, R/o B-40, Kusum Vihar, Jagatpura, Jaipur. Presently R/o Madhu Electronic Main Market Jagatpura, In Front Of Government Upper Primary School, House Of Shankar Meena, Near Railway Station, Jagatpura, Jaipur.
- 4/4 Smt. Rekha Sharma, W/o Shri Naresh Sharma, D/o Late Shri Purusuttam Das Sharma, R/o Z-P-3 Krishna Colony, Zila Parishad Road, Bharatpur.
- 4/5 Smt. Sarita Sharma, W/o Shri Danesh Sharma, D/o Late Shri Purusuttam Das Sharma, R/o W-Z-U 78-A, M.s. Block, Hari Nagar, New Delhi.
- 4/6 Smt. Aruna Sharma, W/o Shri Babulal Sharma, D/o Late Shri Purusuttam Das Sharma, R/o B-9 Kusum Vihar, Jagatpura, Jaipur.
5. Shri Laxmichand Balig S/o Late Shri Chunnilal Jangid, R/o 7/107 New No. 11, Kishanganj, Byawar, District Ajmer. Present Shanti Sadan, Kesarganj, Ajmer (Rajasthan). (Deceased) In His Place, The Following Legal Heirs
 - 5/1 Smt. Manju Sharma, W/o Late Shri Laxmichand Balig, R/o Plot No. 493/28, House Near Hand Pump, In Front Of Goa Gas Dipo, Bhajanganj, Byawar, District Ajmer.
 - 5/2 Smt. Bharti Sharma, W/o Shri Devendra Ji, D/o Late Shri Laxmichand Balig, R/o 486/25, Oriental Bank Branch, Chandravaradai Building Taragarh Link Road, Ajmer.
 - 5/3 Smt. Seema Sharma, W/o Shri Vishal Ji Dube, D/o Late Shri Laxmichand Balig, R/o Radha Krishna Murlimanohar Mandir Building Premise, Gali No. 2, Babu Mohalla Chowak, Kesarganj, Ajmer.
 - 5/4 Sushri Munni @ Hemanshi, Aged About 13 Years, Through Her Natural Father Shri Shiv Ji, R/o Ara Machine Wale, Deendayal Upadya Colony, before Krishi Mandi, Medtacity,

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6. Smt. Koshalya Devi Balig, W/o Shri Omdutt Sharma, D/o Late Shri Chunnilal Jangid, R/o C-44 Vikaspuri, New Delhi. (Deceased) In His Place, The Following Legal Heirs As Per The Order Of The Honble Court Dated 7.8.2019
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 - 6/2 Smt. Menu Sharma, D/o Shri Omdutt Sharma, R/o C-40 Hari Nagar, New Delhi-110088.
7. Shri Bholaram Sharma, S/o Shri Murlidhar Sharma, As Self And Legal Heir Of Late Smt. Sannodevi Sharma, D/o Late Shri Chunnilal Jangid, W/o Shri Bholaram Sharma, R/o Kathmandi, Narnol District Mahendragarh (Haryana).
8. Shri Brahmdutt Sharma, D/o Shri Murlidhar Sharma, R/o Kathmandi, Narnol District Mahendragarh (Haryana).
9. Smt. Babli Sharma @kiran Sharma, D/o Shri Brahmdutt Sharma, W/o Dr. Dharmendra Ji Sharma, R/o House No. 29 Vinayak Khem Ka Kuwa, Pal Road, Jodhpur.
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11. Smt. Sharda Sharma, D/o Shri Brahmdutt Sharma, W/o Shri Hariyendra Sharma, R/o Civil Hospital, Quarter No. 4, Tuhana (Haryana). Presently R/o E-10 Vipul World Sohna Road, Gurugram.
12. Shri Ravidutt Sharma, S/o Late Shri Laxmichand Balig, (Deceased), In His Place, The Following Legal Heirs-
 - 12/1 Smt. Hemlata, W/o Late Shri Ravidutt Sharma
 - 12/2 Master Kartikya, Aged About 5 Years, S/o Late Shri Ravidutt Sharma
 - 12/3 Sushri Gora, D/o Late Shri Ravidutt Sharma, Aged About 7 Years, Above Respondent No. 12/2 And 12/3 Through Their Natural Mother Smt. Hemlata, W/o Late Ravidutt Sharma. Above 12/1 To 12/3 R/o Plot No. 493/28, House Near Hand Pump, In Front Of Goa Gas Dipu, Bhajanganj, Byawar, District Ajmer.
13. Shri Manmohan Singh, S/o Shri Dilip Singh Ji, R/o

Pushkarganj, Sikh Colony, Gali No. 1, House No. 6,
Beawar, Rajasthan.

14. Sub- Registrar, Tehsil Office Premise, Beawar.
15. State Of Rajasthan, Through District Collector, Ajmer.
16. Smt Kamla Devi Balig, D/o Late Shri Prabhu Dayal Ji, W/o Shi Shankar Dev Ji, R/o A- 145, Near Shyopuri Government School, Kalwar Road, Johtwara, Jaipur. (Deceased) In His Place, The Following Legal Heirs As Per The Order Of The Honble Court Dated 20.4.2023
- 16/1 Smt. Sangeeta Devi Sharma, W/o Shri Kunjbhihariji Sharma, D/o Late Shri Shankar Dev Ji, R/o 68, Rampal Engineering Works, Jobner Bagh, Near Mukesh Fashion, Station Road, Jaipur.
- 16/2 Shri Satish Sharma, S/o Late Shri Shankar Dev Ji, R/o B- 258 A, 10 B Scheme, Gopalpura Bypass, Near Temple, Jaipur.
- 16/3 Shri Anuj Sharma, S/o Late Shri Shankar Dev Ji, R/o F- 402, Vega Block, Star City, Kalwar Road, Hatoj, Jaipur. Presently R/o Venue-65 R, Garden Residency, Govindpura, Jaipur
- 16/4 Smt. Indu Sharma, W/o Shri Amit Ji Sharma, D/o Late Shri Shankar Dev Ji, R/o J.a./2 B, L.i.g. Flats, G-8 Area, Near Swarg Ashram Temple, Hari Nagar, Delhi.

-----Respondents

Connected with

S.B. Civil Writ Petition No. 16285/2025

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-----Respondents

For Petitioner(s) : Mr. Arvind Rana
For Respondent(s) :

HON'BLE MR. JUSTICE BIPIN GUPTA

Order

08/12/2025

1. With the consent of the learned counsel for the petitioner, the writ petitions are disposed of by a common order. Three different applications were filed in three separate suits, seeking permission for secondary evidence in regard to document dated 26.10.2007, was rejected by learned Trial Court.
2. It is contended by learned counsel for the petitioner that he had filed one suit for partition and two other for cancellation of the sale deed. In the suit for partition, he stated that no partition had taken place between the parties. He filed along with the suit, a photocopy of the partition dated 26.10.2007. It was his case that the said document may be called from the defendants, as it is within their power and possession.
3. The defendants were served application under Order 11 Rule 12 & 14 of CPC. In reply to that application, they submitted an affidavit to the effect that the said document is not possible for them to be submitted. It was further contended by them that

since no such document has been executed and the document is forged, therefore, it cannot be permitted to be lead in secondary evidence.

4. It is also contended by learned counsel for the petitioner that, given this factual situation, it has become necessary to permit him for leading secondary evidence in regard to the document dated 26.10.2007 and, therefore, he submits that learned Trial Court has committed illegality in rejecting application under Section 63, 65 & 66 of the Indian Evidence Act vide order dated 19.08.2025. He prayed that order dated 19.08.2025 may be set aside and his application may be allowed.

5. Heard.

6. This Court finds that the plaintiff had filed a suit for partition and two other suits for cancellation. In all these three suits, separate applications were filed under Section 63, 65 & 66 of the Indian Evidence Act. The document in question, for which secondary evidence is sought by the petitioner is a document of partition dated 26.10.2007.

7. The defendants have categorically denied existence/execution of a document dated 26.10.2007 and have further stated that it is forged document.

8. Considering the same, since the plaintiff claims that there is no partition, defendants are denying the partition under the agreement dated 26.10.2007. This Court do not finds any necessity to permit the petitioner to lead secondary evidence on document dated 26.10.2007.

9. For the above reasons, the present writ petitions are dismissed.

10. All pending application(s), if any, also stand disposed of.
11. Copy of this order be placed in each file separately.

(BIPIN GUPTA),J

MAHIMA/2, 3 & 11