

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil First Appeal No. 1691/2025

Divyanshu S/o Lokendra Kumar and Ors.

----Appellants

Versus

Babulal S/o Bhairulal Adopted Son Of Pannalal and Ors.

----Respondents

For Appellant(s) : Mr. Shubham Rohilla
Mr. Vaibhav Nirmal for
Mr. Rahul Kamwar

For Respondent(s) :

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

13/11/2025

1. Plaintiffs' civil first appeal against dismissal of their civil suit for partition and permanent injunction vide judgment dated 18.09.2025 passed in Civil Suit No. 13/2019 by the Additional District Judge No.1, Baran.
2. Counsel for appellants argued that the present suit includes agriculture as well as residential property, which are ancestral and appellants have their birth right in the suit property being co-parcener.
3. Counsel for appellant submits that the trial Court in para 23 of the judgment, except the plaintiffs' right in the suit property, but since the residential property was not held ancestral, the trial Court declined to make partition in respect of agricultural land and dismissed the suit as a whole, leaving it open to the plaintiffs to approach to the Revenue Court.

4. Counsel for appellants while relying upon Section 242 of the Rajasthan Tenancy Act, 1955 argued that the trial Court erred in dismissing plaintiffs' suit. His submission is that firstly the present suit is composite suit and residential property is also liable to be partitioned, hence, Civil Court has jurisdiction and secondly, the Civil Court could have resorted to the procedure envisaged under Section 242 of the Rajasthan Tenancy Act, in order to make partition of the agricultural land, hence, the trial Court has erred in dismissing plaintiffs' suit and the impugned judgment suffers from factual as well as legal errors.

5. Heard.

6. Admit.

7. Issue notice of hearing of first appeal as also of stay application to the respondents.

8. In the meanwhile, suit property shall not be alienated to any third person.

9. Record of the trial Court be summoned.

(SUDESH BANSAL),J