

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 16733/2025

- 1 Dalmeer Khan S/o Sh. Avaj Khan, R/o Gram Jindoli (Deceased) Through LRs
- 1.1 Rasuli W/o Late Sh. Dalmeer Khan, Aged About 70 Years, R/o Gram Jindoli, Tehsil Mundawar, District Khairthal-Tijara, (Raj.)
- 1.2 Hussain S/o Late Sh. Dalmeer Khan, Aged About 48 Years, R/o Gram Jindoli, Tehsil Mundawar, District Khairthal-Tijara, (Raj.)
- 1.3 Sabchain S/o Late Sh. Dalmeer Khan, Aged About 45 Years, R/o Gram Jindoli, Tehsil Mundawar, District Khairthal-Tijara, (Raj.)
- 1.4 Aameen Khan S/o Late Sh. Dalmeer Khan, Aged About 42 Years, R/o Gram Jindoli, Tehsil Mundawar, District Khairthal-Tijara, (Raj.)
- 1.5 Resi D/o Late Sh. Dalmeer Khan, Aged About 50 Years, At Present R/o Gram Kutiyapur, District Khairthal-Tijara, (Raj.)
- 1.6 Majidan D/o Late Sh. Dalmeer Khan W/o Sh. Fajjar Khan, Aged About 46 Years, R/o Gram Jhareda, Tehsil And District Alwar, (Raj.)
- 1.7 Aameena D/o Late Sh. Dalmeer Khan W/o Sh. Rafiq Khan, Aged About 44 Years, R/o Gram Jhareda, Tehsil And District Alwar, (Raj.)

----Petitioners/Plaintiffs

Versus

- 1 Balgaar @ Balkaar Singh S/o Sh. Ujagar Singh, Aged About 68 Years, R/o Jaharkheda, Tehsil And District Alwar, (Raj.)
- 2 Nabbu Khan S/o Sh. Habib Khan, R/o Jaharkheda, Tehsil And District Alwar, (Raj.) (Deceased)
- 2.1 Aas Mohammad S/o Late Sh. Nabbu Khan, R/o Jaharkheda, Tehsil And District Alwar, (Raj.)

----Respondents/Defendants

For Petitioner(s) : Mr. Ajay Goyal

For Respondent(s) : Mr. Mahesh Chand Gupta

HON'BLE MR. JUSTICE BIPIN GUPTA
Judgment / Order

24/04/2026

1. The present writ petition has been filed assailing the order dated 17.09.2025, passed by learned Additional Civil Judge No.4,

Alwar, whereby the application preferred by the plaintiff-petitioner for reopening the evidence of his witnesses has been rejected.

2. Learned counsel for the petitioner, at the outset, submits that the petitioner, being the plaintiff in a suit for specific performance of contract, had already filed the examination-in-chief of all four witnesses by way of affidavits. Out of the said four witnesses, two have already been produced and cross-examined by the defendants.

3. Learned counsel for the petitioner further submits that the remaining two witnesses are material and essential for the just adjudication of the case. Therefore, if one further opportunity is not granted to the plaintiff-petitioner to produce the said witnesses for the purpose of cross-examination, it would result in serious prejudice to his rights.

4. Per contra, learned counsel for the respondent submits that sufficient and adequate opportunities have already been granted to the plaintiff-petitioner. Despite availing such opportunities, the petitioner produced only two witnesses for cross-examination, whose cross-examination has been completed. It is further submitted that the suit has already reached the stage of final hearing and, therefore, no further indulgence ought to be granted.

5. In rejoinder, learned counsel for the petitioner submits that the matter has reached the stage of final hearing owing to the directions issued by this Court while issuing notice, whereby the learned Trial Court was directed to proceed with the suit, though it was specifically ordered that the suit shall not be finally decided. It is also submitted that the application for reopening of the

plaintiff's evidence was filed within a reasonable time, prior to the commencement of the defendant's evidence.

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

7. This Court finds that the plaintiff-petitioner had already placed on record the examination-in-chief of all his witnesses by way of affidavits. However, out of the four witnesses, two could not be produced for cross-examination at the relevant time when the evidence was closed.

8. Considering the facts and circumstances of the case, and in the interest of justice, this Court deems it appropriate to grant one final opportunity to the plaintiff-petitioner to produce the remaining two witnesses before the learned Trial Court for the purpose of cross-examination by the defendant, subject to payment of cost of Rs.15,000/-. It is made clear that the aforesaid opportunity shall be granted only once, and the petitioner shall ensure the presence of both witnesses before the learned Trial Court on the next date of hearing. Upon their appearance, the learned Trial Court shall proceed with their cross-examination in accordance with law and at its convenience.

9. It is further directed that the cost of Rs. 15,000/- shall be paid to the defendant prior to the commencement of cross-examination.

10. Considering the stage of the suit, it is also deemed appropriate to grant liberty to the defendant-respondent to lead additional evidence, if so required, for the purpose of rebutting the testimony of the witnesses permitted to be examined pursuant to this order.

11. With the aforesaid observations and directions, the present civil writ petition stands disposed of.

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

(BIPIN GUPTA),J