

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Second Appeal No. 485/2025

Syed Ajaz Ali S/o Shri Sarfaraz Ali (Deceased) through LRs and
ors.

----Appellants-Defendants

Versus

Dargah Committee, Ajmer

----Respondent-Plaintiff

For Appellant(s) : Mr. Ridhvick Dosi

For Respondent(s) :

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

11/11/2025

1. Counsel for the appellants submits that defendant No.2 was hereditary *Khadim* and in lawful possession of *Hujra* in question. Suit for possession, filed by and on behalf of respondent-Dargah Committee, Ajmer, to take possession of *Hujra*, was dismissed on merits by the Civil Judge and Judicial Magistrate (West), Ajmer, vide judgment dated 24.03.2003, however, in First Appeal, decree of possession has been passed vide judgment dated 18.05.2017 whereagainst this Second Appeal has been preferred.

2. Learned counsel for the appellants states that during course of First Appeal, defendant No.2 passed away and without effecting proper service, his legal representatives were taken on record and proceedings in appeal proceeded ex-parte and judgment impugned herein dated 18.05.2017 was passed behind the back of appellants and without extending opportunity of hearing to the appellants.

3. It has further been submitted that that now the Dargah Committee, Ajmer, is proceeding to execute the decree and

inclined to take possession of *Hujra* from the appellants and at that moment, they came to know about the passing of the impugned judgment and has filed Second Appeal along with application for condonation of delay.

4. Let notice on the application under Section 5 of the Limitation Act along with Second Appeal and stay application be issued to respondent-plaintiff.

5. Notice may be issued by both modes, ordinary as well as registered post, within a period of one week, failing which this appeal shall stand dismissed without further reference to this Court.

6. In the meanwhile, respondent-plaintiff shall not take possession of *Hujra* in question, in pursuance of execution of the impugned judgment dated 18.05.2017, passed by Additional District & Sessions Judge No.2, Ajmer, in Civil First Appeal No. 48/2026.

(SUDESH BANSAL),J