

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 16979/2024

Jasmin Kaur Wife Of Ravneet Singh Chadda Daughter Of Late Shri Harbhajan Singh Chhadda, R/o J-113, Ashok Chowk, Adarsh Nagar, Jaipur, Rajasthan.

-----Plaintiff

Versus

1. Smt. Harjeet Kaur Wife Of Late Harbhan Singh Chadda, Resident Of J-113, Ashok Chok, Adarsh Nagar, Jaipur, Rajasthan.
2. Guandeep Kaur D/o Late Harbhan Singh Chadda, Resident Of J-113, Ashok Chok, Adarsh Nagar, Jaipur, Rajasthan.
3. Rupneet Kaur D/o Late Harbhan Singh Chadda, Resident Of J-113, Ashok Chok, Adarsh Nagar, Jaipur, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Poonam Chand Bhandari with
Mr. Rakesh Chandel,
Ms. Pratibha Baresa,
Mr. Vijendra Praeek

For Respondent(s) : Mr. Sandeep Sharma

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment

Reportable

Date of hearing and conclusion of arguments	15.05.2026
Date on which the judgment was reserved	15.05.2026
Whether the full judgment or only the operative part is pronounced	Full Judgment
Date of pronouncement	25.05.2026

1. The present writ petition has been filed assailing the order dated 01.10.2024, passed by learned Additional District and Session Judge, No. 3, Jaipur Metropolitan-I, in Civil Suit No.

51/2022, whereby the application filed Order 12 Rule 6 CPC preferred by the petitioner has been dismissed.

2. Briefly stated, the essential facts necessary for adjudication of the present controversy are that the plaintiff-petitioner instituted a civil suit in the year 2022 seeking partition and permanent injunction in respect of the properties belonging to her father, Late Shri Harbhajan Singh Chaddha. Pursuant thereto, summons were issued to the defendants-respondents, who, upon effective service, appeared before the learned Trial Court and filed their written statement, specifically denying the averments made in the plaint.

2.1 On the basis of the pleadings of the parties, the learned Trial Court framed as many as eight issues on 10.05.2023.

2.2 On the same date, the plaintiff-petitioner filed an application under Order 12 Rule 6 CPC for partial decree of suit based on admission.

2.3 Upon the said application, the defendants-respondents filed reply.

2.4 After hearing both the parties, the learned Trial Court dismissed the said application vide order dated 01.10.2024.

3. Being aggrieved by the order dated 01.10.2024, the petitioner preferred the present writ petition.

4. Learned counsel for the petitioner submitted that the learned Trial Court committed a grave error of law as well as of facts in dismissing the application filed by the petitioner vide order dated 01.10.2024. He further contended that the learned Trial Court failed to properly appreciate the written statement filed by the

defendants-respondents, wherein it has been specifically admitted that the plaintiff-petitioner and the defendants-respondents are the only legal heirs and successors of Late Shri Harbhajan Singh Chaddha and are entitled to equal shares in House No. J-113, Ashok Chowk, Adarsh Nagar, Jaipur.

4.1 Learned counsel for the petitioner further contended that the learned Trial Court committed a serious error in placing reliance upon the objections raised by the defendants-respondents with regard to jurisdiction and limitation. He submitted that no objection concerning jurisdiction or limitation had been pointed out by the office at the time of filing of the suit. He further argued that the suit was instituted after the death of Late Shri Harbhajan Singh Chaddha and, therefore, the same is well within limitation and fully maintainable before the competent Court having jurisdiction to adjudicate the matter.

4.2 Learned counsel for the petitioner also submitted that the learned Trial Court failed to consider the genuine necessity of the plaintiff-petitioner for partition of the house in dispute.

4.3 In view of the aforesaid submissions, learned counsel for the petitioner prayed that the present writ petition be allowed, the order dated 01.10.2024 be quashed and set aside, and the application filed under Order XII Rule 6 CPC be allowed.

5. Per contra, learned counsel for the respondents submitted that the plaintiff-petitioner has wrongly claimed one-fourth share ($1/4^{\text{th}}$ share) in the suit property without any legal basis or documentary proof, and that the respondents have never admitted such share of plaintiff. He further submitted that the plaintiff-

petitioner has failed to establish any right, title or share in property bearing No. J-113, Ashok Chowk, Adarsh Nagar, Jaipur, and that her status has consistently been treated only as that of a permissive user/licensee.

5.1 Learned counsel for the respondents argued that the suit is bad for non-joinder of necessary parties, as all legal heirs of Late Shri Harbhajan Singh Chadha, particularly Harjot Singh son of Gundeep Kaur, have not been impleaded despite having lawful interest in the estate. He also submitted that adjudication of rights in the estate of Late Shri Harbhajan Singh Chadha requires determination of all movable and immovable assets, financial transactions, business assets and other properties, and therefore, no partial claim regarding the suit property can be entertained independently. He further submitted that the plaintiff-petitioner had already received substantial benefits during the lifetime of Late Shri Harbhajan Singh Chadha through family settlement, including business stock, shops and a flat situated at A-3/12, Brahma Bhog Society, V.T. Kavade Road, Pune, the consideration of which was paid by the deceased. Hence, the plaintiff is estopped from claiming any further share in the suit property.

5.2 Learned counsel for the respondents further argued that complicated questions of fact and title are involved in the matter, including determination of legal heirs, prior settlements and adjustment of shares, which require full-fledged trial and evidence. He also contended that the plaintiff-petitioner has suppressed material facts regarding prior settlements, assets already received and existence of other legal heirs, and thus has

not approached this Court with clean hands. He further submitted that the balance of convenience lies in favour of the respondents and no irreparable loss would be caused to the plaintiff if the application is rejected, whereas granting relief at this stage would prejudice the rights of other legal heirs and respondents.

5.3 In support of his contention, learned counsel for the respondents relied upon the following judgments of the Hon'ble Supreme Court:

(i) **Jeevan Diesels and Electricals Limited vs Jasbir**

Singh Chadha (HUF) & Anr.; (2010) 6 SCC 601.

(ii) **Himani Alloys Limited vs Tata Steel Limited;**

(2011) 15 SCC 273.

5.4 In view of the aforesaid submissions, learned counsel for the respondents prayed that the present writ petition be dismissed and the order dated 01.10.2024 be upheld.

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

7. Before advertng to the merits of the case, it would be apposite to examine the scope of interference available to this Court while exercising jurisdiction under Article 227 of the Constitution of India. It is well settled that the supervisory jurisdiction of this Court under Article 227 is extremely limited in nature.

7.1 The said position of law has been reiterated time and again by the Hon'ble Apex Court in the judgments of **Sadhana Lodh vs National Insurance Company Limited & Anr.; 2003 (3) SCC 524** and **Ranjeet Singh vs Ravi Prakash; 2004 (3) SCC 682,**

wherein the Court has held that the interference under Article 227 of the Constitution of India is warranted only in cases where there is flagrant violation of the fundamental principles of law or justice, or where there is a patent error, not requiring elaborate examination. Thus, the Court ought not to re-appreciate or re-evaluate evidence as if it were exercising appellate jurisdiction. Hence, the Court is vested with limited role and cannot interfere in findings of fact unless the same are shown to be perverse, patently illegal or vitiated by a jurisdictional error. Keeping these principles in mind, the submissions advanced by learned counsel for both the parties have been considered.

8. Before examining the rival submissions advanced by the parties and the core issue arising in the present matter, it is considered appropriate to first refer to the relevant statutory provisions forming the basis of the controversy involved. An examination of the said provisions is necessary for proper adjudication of the dispute and for appreciating the contentions raised on behalf of both sides. Accordingly, for the sake of convenience and ready reference, the relevant provisions of Order XII Rule 6 CPC are reproduced hereinbelow:

"6. Judgment on admissions.—(1) *Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.*

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced."

8.1 Order XII Rule 6 CPC confers a discretionary power upon the Court to pronounce judgment on the basis of admissions made by a party, without awaiting adjudication of all the issues involved in the suit. The object of the provision is to ensure expeditious disposal of matters to the extent of admitted claims and to prevent unnecessary prolongation of litigation. However, the said provision is enabling and permissive in nature and not mandatory, as is evident from the use of the word "may" instead of "shall". Thus, no party can claim a decree under Order XII Rule 6 CPC as a matter of right. It is apposite to set out the judgment of the Hon'ble Supreme Court in the case of **Karan Kapoor v. Madhuri Kumar**; (2022) 10 SCC 496, in this regard. The relevant extracts of the judgment are set out below:

"23. Order 12 Rule 6 confers discretionary power to a court who "may" at any stage of the suit or suits on the application of any party or in its own motion and without waiting for determination of any other question between the parties makes such order or gives such judgment as it may think fit having regard to such admission.

24. Thus, legislative intent is clear by using the word "may" and "as it may think fit" to the nature of admission. The said power is discretionary which should be only exercised when specific, clear and categorical admission of facts and documents are on record, otherwise the court can refuse to invoke the power of Order 12 Rule 6. The said provision has been brought

with intent that if admission of facts raised by one side is admitted by the other, and the court is satisfied to the nature of admission, then the parties are not compelled for full-fledged trial and the judgment and order can be directed without taking any evidence. Therefore, to save the time and money of the court and respective parties, the said provision has been brought in the statute. As per above discussion, it is clear that to pass a judgment on admission, the court if thinks fit may pass an order at any stage of the suit. In case the judgment is pronounced by the court a decree be drawn accordingly and parties to the case is not required to go for trial.”

[Emphasis Supplied]

8.2 The power under Order XII Rule 6 CPC is required to be exercised judiciously, keeping in view the facts and circumstances of each case. A judgment on admission can be passed only when the admission is clear, categorical, unequivocal and unconditional. While exercising such discretion at a preliminary stage, the Court must remain guided by the maxim "*Actus curiae neminem gravabit*", meaning thereby that 'an act of the Court shall prejudice none'. Therefore, the Court is required to proceed cautiously and judicially, and not in a mechanical manner, while deciding an application under Order XII Rule 6 CPC.

8.3 Where serious disputes relating to title, ownership, limitation, non-joinder of parties or other substantial questions of fact and law arise, the Court may decline to exercise its discretion under Order XII Rule 6 CPC and may instead direct the parties to lead evidence. In such circumstances, a roving enquiry at an interlocutory stage is impermissible. The provision is intended to

grant immediate relief only in cases where the entitlement of a party stands admitted beyond ambiguity and no substantial controversy survives for adjudication. It is apposite to set out the judgment of the High Court of Delhi in the case of **Krishna Kumari v. Sunil Kumar Goel & Another**; 2014 214 DLT 404, in this regard. The relevant extracts of the judgment are set out below:

"16. It is settled law that a judgment on admission by the defendant under Order 12 Rule 6 CPC is not a matter of right and rather is a matter of discretion of the Court. If a case involves questions which cannot be conveniently disposed of or a motion under this rule the Court is free to refuse exercising discretion in favor of the party invoking it.

17. It is not in each case where Order 12 Rule 6 CPC is invoked that the Court would be obliged to pass a decree which case would depend upon its own peculiar facts. Where the defendants have raised objections which go to the very root of the case, it would not be proper to exercise this discretion and pass a decree in favor of the plaintiff.

18. The purpose of Order 12 Rule 6 CPC is to avoid waiting by the plaintiff for part of the decree when there is a clear, unequivocal, unambiguous and unconditional admission of the defendant in respect of the claim of the defendant. The rule only secures that if there is no dispute between the parties, and if there is on the pleadings or otherwise such an admission as to make it plain that the plaintiff is entitled to a particular order or judgment he should be able to obtain it at once to the extent of admission. But the rule is not intended to apply where there are serious questions of law to be asked and determined.

19. Likewise where specific issues have been raised in spite of admission on the part of the defendants the plaintiff would be bound to lead evidence on those issues and prove the same before he becomes entitled to decree and the plaintiff in that event cannot have a decree by virtue of provision of Order 12 rule 6 CPC without proving those issues. The case of State Bank of India vs. Midland Industries and Ors. AIR 1988 Delhi 153 is relevant in this regard."

[Emphasis Supplied]

8.4 Order XII Rule 6 CPC is also required to be read harmoniously with Order VIII Rule 5 CPC and Section 53 of the Bharatiya Sakshya Adhiniyam, 2023 (hereinafter referred to as "BSA, 2023"), corresponding to Section 58 of the Indian Evidence Act, 1872. Though admitted facts ordinarily need not be proved, the proviso to Section 53 of BSA, 2023 preserves the discretion of the Court to require proof even in respect of admitted facts where the interest of justice so warrants. Therefore, notwithstanding any admission contained in the pleadings, the Court may still insist upon strict proof before passing a decree.

8.5 Accordingly, where the defendants have raised objections going to the root of the matter and the case involves disputed questions requiring full-fledged trial, the Court would be justified in refusing relief under Order XII Rule 6 CPC. The provision cannot be invoked in cases involving complex and contentious issues requiring adjudication upon evidence.

8.6 In the present case, after perusal of the record it reveals that the plaintiff-petitioner filed the suit seeking partition by claiming herself along with defendants-respondents to be the legal heirs of

Late Harbhajan Singh Chadda and claiming 1/4th share in the suit properties. Though the defendants-respondents admitted the relationship between the parties and the plaintiff's status as a legal heir, they specifically pleaded the existence of a release deed dated 03.09.2020 executed pursuant to a family settlement, thereby disputing the extent and nature of the plaintiff's rights. The defendants-respondents further raised objections regarding limitations, valuation, court fees and jurisdiction of the Court.

8.7 The learned Trial Court, on the basis of the pleading, framed issues on 10.05.2023 including issue No. 3 relating to the release deed dated 03.09.2020. The learned Trial Court also framed issues relating limitation, valuation, court fees and jurisdiction thereby indicating that disputed adjudication through evidence existed between the parties.

8.8 This Court finds that the learned Trial Court rightly held that mere admission of the plaintiff-petitioner being a legal heir or having a share in property No. J-113, Ashok Chowk, Adarsh Nagar, Jaipur, could not be construed as a clear, unequivocal and unconditional admission warranting a decree under Order 12 Rule 6 CPC. The effect and validity of the release deed as well as the objections relating to limitation and jurisdiction are substantial matters which can only be adjudicated after recording evidence.

8.9 So far as the judgments relied upon by learned counsel for the respondents are concerned, in ***Jeevan Diesels and Electricals Limited Case (Supra)***, the Hon'ble Apex Court held that before a Court can act under Order XII Rule 6 CPC, the admission must be clear and unambiguous. Additionally, in ***Himani Alloys Limited***

Case (*Supra*), the Hon'ble Apex Court held that a judgment under Order XII Rule 6 CPC can be passed only on a clear, categorical, unambiguous, and unconditional admission consciously made by a party. The relevant paragraph is reproduced hereinbelow:

"11. It is true that a judgment can be given on an admission contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear admission which can be acted upon. (See also Uttam Singh Duggal & Co. Ltd. v. United Bank of India [(2000) 7 SCC 120], Karam Kapahi v. Lal Chand Public Charitable Trust [(2010) 4 SCC 753: (2010) 2 SCC (Civ) 262] and Jeevan Diesels and Electricals Ltd. v. Jasbir Singh Chadha [(2010) 6 SCC 601: (2010) 2 SCC (Civ) 745]) There is no such admission in this case."

(Emphasis supplied)

8.9 In view of above, this Court finds that the reasoning assigned by the learned Trial Court is based upon proper appreciation of the pleadings and material available on record. No illegality, perversity

or jurisdictional error is found in the impugned order dated 01.10.2024.

8.10 The learned Trial Court is expected to decide the matter expeditiously and strictly in accordance with law, after affording adequate opportunity of hearing to all the parties concerned.

8.11 Consequently, the present writ petition stands **dismissed**.

The impugned order dated 01.10.2024 is affirmed.

8.12 Pending application(s), if any, stands disposed of.

(BIPIN GUPTA),J