

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 1120/2026

1. Smt. Manju Khandelwal W/o Lt. Shri Rajendra Khandelwal D/o Lt. Shri Radheshyam Gupta, R/o M/s All In One, Punam Takij Ke Paas, Laalsot Road, Naya Katla, Dausa.
2. Smt. Kaanta Devi Gupta W/o Lt. Shri Kailash Tambi D/o Lt. Shri Radheshyam Gupta, R/o 119-120, Jeen Mata Ka Khurra, Ramganj Bazar, Jaipur.
3. Smt. Indra Jhalani W/o Shri Kailash Jhalani D/o Lt. Shri Radheshyam Gupta, R/o House No. 1805, Mangalram Purohit Ki Gali, Jailal Munshi Ka Rasta, Chandpol Bazar, Jaipur.
4. Smt. Madhu Dhamani W/o Shri Ghanshyam Dhamani D/o Lt. Shri Radheshyam Gupta, R/o House No. 118A, Sivad Area, Krishna Marg, Bapu Nagar, Jaipur.

----Petitioners/Original Defendants (No.4 to 7)

Versus

1. Shri Kuldeep Kumar Khandelwal S/o Lt. Shri Radheshyam Gupta, R/o House No. 138, Tikkadmal Ka Rasta, Kishanpol Bazar, Chowkdi Topkhana Desh, Jaipur.
2. Smt. Manju Khandelwal W/o Shri Kuldeep Kumar Khandelwal, R/o House No. 138, Tikkadmal Ka Rasta, Kishanpol Bazar, Chowkdi Topkhana Desh, Jaipur.

----Respondent/Original Defendant Nos. 1 & 2

3. Ashok Gupta S/o Lt. Shri Radheyshyam Gupta, R/o House No. 138, Tikkadmal Ka Rasta, Kishanpole Bazar, Chowkdi Topkhana Desh, Jaipur.

----Performa Respondent/Original Plaintiff

4. Smt. Manni Devi Gupta W/o Lt. Shri Radheshyam Gupta, R/o House No. 138, Tikkadmal Ka Rasta, Kishanpol Bazar, Chowkdi Topkhana Desh, Jaipur.

----Deceased During Suit

5. Sunil Gupta S/o Lt. Shri Radheyshyam Gupta, Aged About 45 Years, R/o House No. 138, Tikkadmal Ka Rasta, Kishanpol Bazar, Chowkdi Topkhana Desh, Jaipur Through Natural Parentage Mother Smt Manni Devi Gupta

----Deceased During Suit

For Petitioner(s)	:	Mr. Hitarth Dixit Mr. Mohit Khandelwal
For Respondent(s)	:	

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

11/02/2026

1. The present writ petition has been filed assailing the order dated 27.11.2025, passed by learned Additional District and Sessions Judge No.2, Jaipur District, Jaipur whereby the application filed by the defendant-petitioner for opening the evidence, which was closed on 04.10.2025, has been rejected.

2. It is contended by learned counsel for the petitioner that the suit for partition was filed in the year 2015 and the issues were framed in the year 2017. The evidence of the plaintiff was completed on 15.02.2025. Thereafter, the defendants i.e., defendant Nos. 1 & 2 proceeded with their evidence. The last date i.e. on 04.10.2025, the evidence of defendant No.2 was closed. However, on that date since the other defendants were not present, their evidence was also closed and no opportunity was given to other defendants to lead the evidence. Learned counsel for the petitioner submits that he had filed a counter-claim also and his evidence was necessary for the purpose of adjudication of the suit.

3. He further submits that learned Trial Court has merely rejected the application on account of the fact that since the plaintiff is claiming 1/8 share and the defendants-petitioners are also claiming 1/8th share in the property in dispute, which is similar to the case of plaintiff and thus, the said application was merely a tactic to delay the proceedings.

4. Learned counsel for the petitioner further submits that this cannot be a ground in a suit for partition, as in a partition suit every defendant is a plaintiff and vice versa. Therefore, he

submits that he ought to have been granted permission to lead his evidence.

5. Heard and perused the material available on record.

6. This Court finds that on 04.10.2025, when the defendants-petitioner's evidence was closed on that date, the other defendant's witnesses were examined and they had completed their evidence. However, no further opportunity was granted to other defendants to lead evidence specifically in a case when separate reply was filed by different defendants.

7. In interest of justice, this Court deems it appropriate to grant one last opportunity to the defendants to lead their evidence in support of their written statement as well as their counter claim, subject to payment of cost of Rs.10,000/- to the respondent-plaintiff.

8. Accordingly, the present Civil Writ Petition is allowed. The order dated 27.11.2025 is hereby quashed and set aside. Learned Trial Court is directed to give one opportunity to petitioner to produce his entire evidence, subject to payment of cost of Rs.10,000/- to the respondent-plaintiff.

9. However, it is made clear that if the respondent-plaintiff is aggrieved in any manner by this order, then he may file an application for recalling of this order.

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

(BIPIN GUPTA),J