



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**



S.B. Civil Second Appeal No. 251/2025

1. Lrs Of Mahaveer Singh, S/o Mool Singh, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)
2. Prem Kanwar W/o Late Mahaveer Singh, Aged About 58 Years, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)
3. Vijesh Kanwar D/o Late Mahaveer Singh, Aged About 40 Years, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)
4. Lokendra Singh S/o Late Mahaveer Singh, Aged About 38 Years, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)
5. Vinod Kanwar D/o Late Mahaveer Singh, Aged About 35 Years, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)
6. Devendra Singh S/o Late Mahaveer Singh, Aged About 32 Years, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)

-----Appellants

Versus

1. Narendra Singh S/o Guman Singh, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)
2. Lrs Of Ladu Singh S/o Dhokal Singh, Resident Of Lichana
3. Pritam Kanwar D/o Late Ladu Singh, Aged About 38 Years, Wife Of Rajveer Singh, Resident Of Jobner Jaipur Rajasthan
4. Mohan Singh S/o Mool Singh, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Rajasthan)
5. Birju S/o Jagnath Singh, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman (Raj)
6. Govind Singh S/o Jagnath Singh, Resident Of Lichana, Tehsil Nawa, District Deedwana Kuchaman(Raj)
7. Tehsildar, Nawa
8. Sarpanch Gram Panchayat, Lichana
9. Patwari, Patwar Halka, Lichana, Tehsil Nawa, District





Deedwana Kuchaman (Rajasthan)

----Respondents

---

For Appellant(s) : Mr. Deependra Singh Shekhawat  
Mr. Rajendra Singh Rathore  
For Respondent(s) : Mr. Parmveer Singh Champawat

---

**HON'BLE MR. JUSTICE FARJAND ALI****Order****REPORTABLE****07/05/2026**

1. The instant Civil Second Appeal has been preferred by the appellants–plaintiffs assailing the judgment and decree dated 18.08.2025 rendered by the learned Addl. District Judge No.1, Parbatsar in Regular Civil Appeal No.5/2023, whereby the learned first appellate court affirmed the judgment and decree dated 13.02.2023 passed by the learned Senior Civil Judge, Parbatsar in Civil Original Case No.56/1999. By virtue of the aforesaid judgments, the civil suit instituted by the appellants–plaintiffs seeking reliefs of specific performance of contract, cancellation of sale deed and perpetual injunction came to be dismissed, and the findings recorded by the learned trial court were subsequently upheld in appeal.

2. The factual edifice of the case, as projected by the appellants, is founded upon the assertion that respondent–defendant No.1 had allegedly executed an agreement to sell dated 05.02.1999 in favour of the plaintiffs–appellants for a total sale consideration of Rs.50,000/-. It was averred that despite receipt of the agreed consideration and despite subsistence of contractual obligations arising therefrom, the defendants proceeded to



alienate and deal with the property contrary to the rights claimed by the plaintiffs, thereby necessitating institution of the suit seeking enforcement of the alleged agreement along with consequential reliefs. Hence the instant civil second appeal.

3. Learned counsel appearing on behalf of the appellants strenuously contended that the learned courts below failed to appreciate the evidence in its proper perspective and erroneously disbelieved the agreements relied upon by the plaintiffs. It was further submitted that the findings recorded by the courts below suffer from perversity and misreading of evidence and therefore warrant interference by this Court in exercise of powers under Section 100 of the Code of Civil Procedure.

4. Learned counsel for the respondents supported the impugned judgments and submitted that both the learned courts below, after thorough appreciation of oral and documentary evidence, concurrently held the alleged agreements dated 05.02.1999 and 31.05.1999 to be unproved and unreliable. It was contended that the property had already been transferred in favour of another person and the said fact stood duly established on record. Learned counsel further submitted that no substantial question of law arises in the present appeal and the appellants merely seek reappraisal of evidence, which is impermissible under Section 100 CPC. Lastly, prayed for dismissal of the appeal.

5. This Court has bestowed its thoughtful consideration to the submissions advanced at the Bar and has meticulously traversed





through the judgments impugned as well as the entire material available on record.

6. A careful and comprehensive scrutiny of the judgment rendered by the learned trial court reveals that the controversy involved in the suit was examined with considerable depth and analytical precision. The learned court of first instance framed the requisite issues arising from the pleadings of the parties and thereafter undertook a threadbare appreciation of the oral and documentary evidence adduced by them.

6.1 In particular, Issue No.1 pertaining to the alleged execution of agreement to sell dated 05.02.1999, Issue No.2 concerning the subsequent agreement dated 31.05.1999, and Issue No.9 relating to the genuineness and enforceability of both the agreements, were subjected to elaborate adjudicatory scrutiny. The learned trial court, after carefully evaluating the testimony of witnesses, documentary exhibits, surrounding circumstances and attendant probabilities, arrived at a categorical conclusion that the agreements relied upon by the plaintiffs were not worthy of credence and failed to satisfy the standard of proof required in civil proceedings of such nature.

6.2. The findings recorded by the learned trial court unmistakably demonstrate that the evidence adduced by the plaintiffs was riddled with inconsistencies, improbabilities and material contradictions. The learned court below further found that the execution of the agreements had not been proved in accordance with law and the surrounding circumstances considerably





diminished the evidentiary sanctity of the documents relied upon by the plaintiffs. The adjudication rendered by the learned trial court does not appear to be founded upon conjectures or surmises but upon objective assessment of the evidentiary material available on record.

6.3. This Court further notices that the learned first appellate court, being the final court of facts, independently reassessed the entire evidentiary matrix and thereafter concurred with the conclusions recorded by the learned trial court. The appellate court undertook an exhaustive reappraisal of the pleadings, oral depositions and documentary material and thereafter affirmed the findings of the learned trial court by assigning cogent and convincing reasons. Thus, there exists complete concurrency in the findings concurrently recorded by both the learned courts below. The concurrent determination that the property in question had already been transferred in favour of another person by virtue of Agreement dated 05.01.1999 stands firmly established through cogent oral evidence and reliable documentary material. The adjudication rendered with respect to Issue No.7 also appears to be based upon sound appreciation of evidence and does not suffer from any infirmity of such magnitude so as to justify interference by this Court.

6.4. The discretion exercised by the learned trial court, and subsequently affirmed by the learned first appellate court, appears to have been guided by judicial prudence, balanced reasoning and meticulous appreciation of the entire material available on record.





The conclusions so arrived at are pure findings of fact rendered upon comprehensive evidentiary evaluation and cannot be characterized as perverse, arbitrary or contrary to the record.

6.5. At this juncture, it becomes imperative to advert to the well-entrenched legal position governing the exercise of jurisdiction in a Civil Second Appeal under Section 100 CPC. The jurisdiction of the High Court under Section 100 CPC is neither plenary nor equivalent to that exercised in a regular first appeal. The legislative intent underlying the provision consciously circumscribes the power of interference only to cases involving substantial questions of law.

6.6. The High Court, while exercising second appellate jurisdiction, is not expected to function as a third court of facts for the purpose of undertaking a fresh factual inquiry or reassessing evidence merely because another possible view may also emerge from the record. Concurrent findings of fact recorded by the courts below carry a presumption of correctness and sanctity, and interference therewith is permissible only when such findings are demonstrated to be patently perverse, based upon no evidence, suffering from manifest illegality, or resulting in grave miscarriage of justice.

6.7. Reappreciation of evidence in second appeal is wholly impermissible unless the conclusions arrived at by the subordinate courts shock judicial conscience on account of palpable perversity or complete misapplication of settled legal principles. A substantial question of law cannot arise merely because the appellants seek





substitution of one possible view by another. The jurisdiction under Section 100 CPC is intended to preserve legal uniformity and correct substantial errors of law, and not to reopen factual controversies conclusively adjudicated by the courts below.

6.8. In the present case, learned counsel for the appellants has been unable to demonstrate existence of any substantial question of law arising from the impugned judgments and decrees. What has essentially been sought before this Court is a fresh appreciation and re-evaluation of factual aspects already scrutinized in considerable detail by both the learned courts below. Such an exercise unmistakably falls outside the permissible contours of jurisdiction under Section 100 CPC.

6.9. This Court finds that the judgments rendered by the learned courts below are founded upon meticulous examination of evidence, sound judicial reasoning and lawful appreciation of the material available on record. No perversity, illegality, jurisdictional error or substantial question of law has been shown to exist warranting interference by this Court.

7. Consequently, the instant Civil Second Appeal, being wholly devoid of force and bereft of merit, deserves dismissal and is accordingly dismissed.

**(FARJAND ALI),J**

173-Mamta/-