



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

S.B. Civil Writ Petition No. 21602/2026

CNR: RJHC010900652026 | URN: CW / 36827U / 2026

Kishna Ram S/o Sh. Surja Ram, Aged About 59 Years, R/o Bajju
Khalsa Tehsil Bajju Dist. Bikaner Raj.

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Dist. Collector
Bikaner Raj.
2. Chief Engineer, Indira Gandhi Nahar Pariyojana Bikaner
Raj.
3. Executive Engineer, 14 Division Indira Gandhi Nahar
Pariyojana 931 Bajju Dist. Bikaner Raj.
4. Assistant Engineer, Sub Division-I Pbd-I 14 Division Indira
Gandhi Nahar Pariyojana Rd 931 Bajju Dist. Bikaner Raj.

-----Respondents

For Petitioner(s) : Mr. Arjun Singh
For Respondent(s) : ---

HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

07/09/2026

1. Present writ petition has been filed challenging order dated 09.07.2026, whereby learned Civil Judge and Judicial Magistrate, Sri Kolayat, District Bikaner ("*learned Trial Court*") rejected the application filed by petitioner under Order XI Rules 12 & 14 read with Section 151 CPC, seeking production of certain documents alleged to be in custody of respondent – department.



2. Learned counsel appearing on behalf of petitioner submits that respondent - department had sanctioned the construction of a water pond ("diggi") upon the land of petitioner; however, the location was subsequently changed and construction was started at a different site. Challenging said action, petitioner filed the suit in question before learned Trial Court seeking permanent injunction.

2.1 Learned counsel for the petitioner states that the relevant documents, including the sanction order, the Chak Plan and the survey sheet, are in the custody of respondent - department, and the application under Order XI Rules 12 and 14 CPC was filed, seeking production of the same; however, the same was rejected by learned Trial Court vide impugned order dated 09.07.2026.

3. Learned counsel for the petitioner contends that said application has wrongly been rejected by learned Trial Court. According to learned counsel, documents sought to be produced are highly relevant and germane for the proper and complete adjudication of the suit and that the dismissal of the application in respect thereof has resulted in miscarriage of justice. Learned counsel submits that if said documents are not directed to be produced, the very purpose of filing the suit would get frustrated.

4. Heard learned counsel for the petitioner and perused the material available on record.

5. Provisions contained in Rules 12 and 14 of Order XI CPC govern, respectively, discovery and production of documents which are in the possession or power of the opposite party and relate to a matter in question in the suit. The power conferred



upon the Court under said provisions is discretionary and is required to be exercised having regard to the facts and circumstances of each case, including the relevance and necessity of the documents sought and the circumstances in which their discovery or production is sought.

5.1 In the context of the matter at hand, to understand the principles governing the exercise of such discretion, reliance may be placed upon the judgment of the Hon'ble Allahabad High Court in ***Omkar Nath v. District Judge, 2013 SCC OnLine All 14140***, wherein the Hon'ble Court upheld the order passed by learned Court below rejecting an application under Order XI Rules 12 and 14 CPC filed by the tenant seeking direction to landlord to produce documents relating to other houses alleged to be in landlord's possession. The Hon'ble Court observed as under: -

"12. Here the petitioner has come up with the case that the landlord has got eight more houses and he be directed to file the documents relating to the title and possession over the said houses. There is nothing on record to suggest that the petitioner has ever tried to find out the details of the title as well as the possession of the houses which are detailed in the application and the petitioner wants to shift the burden of producing the papers on the landlord. I am of the view that the provisions contained, either under Order XI, Rule 12 of the C.P.C. or Rule 23 of the Rules, speaks about the power of Court directing the particular party to produce the particular document While exercising this power, either under Order XI, Rule 12 of the C.P.C. or Rule 23 read with Rule 34 of the Rules, the Court must keep in mind that the party praying for discovery/production of a particular document has made its best effort to find out the same and in spite of the best effort, ultimately, failed, or the said document is in possession of the other party, which can



only be produced by that party. The Court should also have in mind, while allowing such type of application, that production of such document is essential for pronouncing the judgment.

13. This provision cannot be utilized by a part/directing a party to adduce the evidence against him the party seeking relief is duty-bound to collect the evidence in its favour and it cannot compel the other side to produce the evidence against the aforesaid party."

(emphasis supplied)

5.2 The provisions under consideration thus contemplate discovery / production of documents which are in the possession or power of the opposite party and which, having regard to the facts of the case, the party seeking their production is unable to procure or otherwise access, despite reasonable efforts. Where the document sought to be discovered or produced is a public document and is otherwise capable of being obtained by the party seeking its production, the principles governing the discretionary exercise of power under said provisions assume greater significance.

In **Mr. Melvin Isaac v. Mr. Michael Isaac Patrick, 2020 (3) AKR 323**, the Hon'ble Karnataka High Court, while considering an application under Order XI Rule 12 CPC seeking *interalia* production of a sanction plan in respect of the suit property, observed that sanction plan was a public document and could be obtained through the mechanism available under the Right to Information Act ("RTI Act"). It was held as follows: -

"12. The third classification of document sought for i.e., copy of the sanction plan. The said sanction plan is also a



public document and is one which is available and one which would be made available to the petitioner to file an application under the Right to Information Act, 2005.

13. In terms of RTI Act all citizens have been given the right to apply for and obtain the information which would include the copies of documents in terms of Section 3 of the RTI Act.

14. Section 2(f) of the RTI Act defines information as under: "2(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;"

15. Section 4 of the RTI Act requires all public authorities or authorities subject to the RTI Act to maintain all the records in a proper and required manner and as also, furnish the same when applied for in terms of Section 6.

16. In view of the above the respondent could have always applied to the plan sanctioning (sic) authority to furnish a copy of the sanctioned plan under the RTI Act.

17. A party to the proceedings if having the opportunity, ability and recourse to either obtain the certified copies of the public documents and/or apply for and obtain the same under the RTI Act, in my considered opinion such a party cannot be permitted to file an application under Order XI, Rule 12 and seek for production of documents when such a party had access to the document/s in the public domain. This of course is subject to the exception where there is a dispute relating to the signatures and/or the like which would require production of the original document and the production of certified copy would not serve the purpose of justice, in such circumstances after the party produces the certified copy of the document or that obtained under RTI





could demonstrate the requirement of production of Original of the document and seek for such order, which could be considered by the court."

(emphasis supplied)

5.3 In the case at hand, the documents sought to be produced / discovered pertain to the sanctioned construction of the water pond and include the survey sheet. These documents form part of the official record of respondent - department and, being public documents, copies thereof are capable of being obtained in accordance with the applicable law governing production of public documents. It is alleged that petitioner had filed an application under the RTI Act for obtaining copies of said documents and the same was rejected / refused by respondent - department; however, no proof of such refusal / rejection has been placed on record. In this respect, it has also been observed by learned Trial Court that said application was filed after a lapse of approximately two months from the institution of suit.

5.4 In the considered opinion of this Court, the mechanism of discovery and production of documents envisaged under Rules 12 and 14 of Order XI CPC is intended to facilitate fair adjudication by securing material documents where the circumstances of the case so warrant. It cannot, however, ordinarily be invoked merely because a litigant finds it convenient to obtain evidence through the opposite party, particularly where such evidence is otherwise reasonably accessible to them. The processes of court cannot be made a handmaiden of indolent litigators. Neither can said provisions be reduced into a medium of collecting evidence in support of foundational facts pleaded by such party, the burden of



establishing which lies upon it, as also rightly observed by learned Trial Court.

6. In view of the foregoing, this Court finds no infirmity in the impugned order passed by learned Trial Court rejecting aforesaid application of petitioner. Petitioner has failed to establish any circumstance warranting exercise of discretionary power under Order XI Rules 12 and 14 CPC in his favor. No error apparent on the face of the record, procedural infirmity or jurisdictional error has been shown in the order impugned so as to warrant interference by this Court in exercise of its extraordinary jurisdiction.

7. Consequently, present writ petition is hereby **dismissed**. Impugned order is upheld.

8. Stay application and all other pending applications, if any, stand disposed of.

(SANJEET PUROHIT),J

54/Kshama Dixit