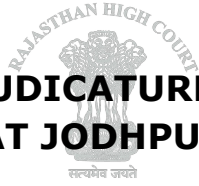




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Civil Writ Petition No. 8992/2023

CNR: RJHC010435802023 | URN: CW / 18998U / 2023

Bihari Lal S/o Shri Mohanlal Ji Soni, Aged About 65 Years, R/o Parasiya, Tehsil Parasiya, District Chhindwara (M.p) At Present Flat No. 809, Urmila Tower, Bank Mod, Dhanbad Jarkhand.

-----Petitioner

Versus

1. Navratanmal Bamb S/o Shri Hastimal Ji Bamb, R/o 6/5 B, Bamb Bhawan, Vakeel Colony, Bhilwara.
2. Mohanlal S/o Shri Premsukh Mahajan (Soni), (Since Deceased) Through His Legal representatives.

2/1. Baskari Devi W/o Late Mohanlal Mahajan (Soni), R/o 218-A, Jamnalal Bajaj Marg, Calcutta (West Bengal).

Narayan Prasad S/o Late Mohanlal Mahajan (Soni), R/o Swapan Lok, 20, Salakiya School Road, Flat No. 7169, Howrah (West Bengal).

2/2. Smt. Rukman Devi Taparia W/o Goverdhan Das D/o Late Mohanlal Mahajan (Soni), R/o Near Ghantaghar, Ratangarh, District Churu (Raj.).

2/3. Smt. Tara Bangar D/o Late Mohanlal Mahajan (Soni), R/o 303, Amar Jyoti Palace, Near Lokem, 8 Square, Post Office Nagpur (Maharashtra).

2/4. Indraprabhav D/o Mohanlal Mahajan (Soni), R/o Dhanbad, Near Govt. School, Dhanbad, Jharkhand.

3. Chetan S/o Late Shri Kamal Kishore Randar, R/o Makrana, Tehsil Makrana, District Nagaur.
4. Nitin S/o Late Shri Kamal Kishore Randar, R/o Makrana, Tehsil Makrana, District Nagaur.
5. Vinita D/o Late Shri Kamal Kishore Randar, R/o Makrana, Tehsil Makrana, District Nagaur.
6. Smt. Induprabha W/o Late Shri Kamal Kishore Randar, R/o Makrana, Tehsil Makrana, District Nagaur.



7. Shiv Kumar S/o Late Shri Gulabchand Ji Bangar,
R/o 303, Amar Jyoti Palace, 3Rd Floor, Lokmat
Chowk, Vardha Road, Dhantoli, Nagpur
(Maharashtra).

-----Respondents

Connected With

S.B. Civil Writ Petition No. 9311/2023

CNR: RJHC010436242023 | URN: CW / 19736U / 2023

Bihari Lal S/o Shri Mohanlal Ji Soni, Aged About 65 Years, R/o
Parasiya, Tehsil Parasiya, District Chhindwara (M.p.) At Present
Flat No. 809 Urmila Tower, Bank Mod, Dhanbad, Jarkhand.

-----Petitioner

Versus

1. Navratanmal Bamb S/o Shri Hastimal Ji Bamb, R/o 6/5 B,
Bamb Bhawan, Vakeel Colony, Bhilwara.
2. Lrs Of Mohanlal, S/o Shri Premsukh Mahajan (Soni)
Through his legal representatives:

2/1. Baskari Devi W/o Late Mohanlal Mahajan (Soni), R/
o 218-A, Jamnalal Bajaj Marg, Calcutta (West Bengal).

Narayan Prasad S/o Late Mohanlal Mahajan (Soni), R/o
Swapan Lok, 20, Salakiya School Road, Flat No. 7169,
Howrah (West Bengal).

2/2. Smt. Rukman Devi Taparia W/o Goverdhan Das D/o
Late Mohanlal Mahajan (Soni), R/o Near Ghantaghar,
Ratangarh, District Churu (Raj.).

2/3. Smt. Tara Bangar D/o Late Mohanlal Mahajan
(Soni), R/o 303, Amar Jyoti Palace, Near Lokem, 8
Square, Post Office Nagpur (Maharashtra).

2/4. Indraprabhav D/o Mohanlal Mahajan (Soni), R/o
Dhanbad, Near Govt. School, Dhanbad, Jharkhand.

3. Chetan S/o Late Shri Kamal Kishore Randar, R/o Makrana,
Tehsil Makrana, District Nagaur.
4. Nitin S/o Late Shri Kamal Kishore Randar, R/o Makrana,
Tehsil Makrana, District Nagaur.
5. Vinita D/o Late Shri Kamal Kishore Randar, R/o Makrana,
Tehsil Makrana, District Nagaur.





6. Smt. Induprabha W/o Late Shri Kamal Kishore Randar, R/o Makrana, Tehsil Makrana, District Nagaur.
7. Shiv Kumar S/o Late Shri Gulabchand Ji Bangar, R/o 303, Amar Jyoti Palace, 3Rd Floor, Lokmat Chowk, Vardha Road, Dhantoli, Nagpur (Maharashtra).

-----Respondents

For Petitioner(s) : Mr. Rishab Shrimali

For Respondent(s) : Mr. Vinay Jain
Mr. Darshan Jain
Mr. Kuldeep Purohit
Mr. Dev Kishan



HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable

DATE OF CONCLUSION OF ARGUMENTS	17/08/2026
DATE ON WHICH ORDER IS RESERVED	17/08/2026
FULL ORDER OR OPERATIVE PART	Full Order
DATE OF PRONOUNCEMENT	15/09/2026

BY THE COURT:-

1. The present two petitions assail the order dated 15.05.2023 passed by the learned Additional District Judge No.1, Bhilwara in Civil Suit No.59/2008 whereby two separate applications came to be decided, one preferred by the defendant under Order VIII Rule 1 of the Code of Civil Procedure and the other moved by the plaintiff under Order VI Rule 2 of the Code. Since both the petitions arise out of the same proceedings and involve interconnected questions, with the consent of learned counsel appearing for the parties, they were heard together and are being disposed of by this common order.

2. Bereft of unnecessary details, the facts germane for adjudication of the present petitions are that respondent No.1



instituted a suit for specific performance of contract and recovery of possession against the petitioner and other defendants. The defendants entered appearance and filed their respective written statements. The controversy in the present proceedings essentially centres around an attempt made by the petitioner-defendant, at the stage when the matter had already entered the evidentiary phase, to place on record a report of handwriting expert Shri Nitin Balchandani, accompanied by a prayer for permitting such material to form part of the record.

2.1. The learned trial Court, upon consideration of the pleadings, the material available on record and the submissions advanced on either side, declined to permit the petitioner to introduce the aforesaid expert report at that stage. The trial Court also allowed the application moved by the plaintiff seeking removal of the affidavit of the handwriting expert from the record. The impugned order reflects that the learned trial Court examined the pleadings of the defendant in their proper perspective and specifically adverted to the relevant averments contained in the written statement.

3. Having heard learned counsel for the parties and upon careful perusal of the impugned order and the material placed on record, this Court finds no jurisdictional infirmity, perversity or manifest illegality warranting interference in exercise of the supervisory jurisdiction under Article 227 of the Constitution of India.



4. The principal difficulty confronting the petitioner is not merely procedural but goes to the very foundation of the proposed evidence. A party is ordinarily required to establish its case within the contours of its pleadings. Pleadings constitute the foundation upon which the edifice of evidence is constructed, and a party cannot ordinarily be permitted to travel beyond the case pleaded by it so as to introduce, at a subsequent stage, an altogether new factual foundation or a defence which was conspicuously absent from the original pleadings.

4.1. In the present case, the learned trial Court has specifically noticed the relevant averments contained in the written statement. Significantly, no specific plea appears to have been raised by the petitioner-defendant in the written statement that the signature appearing upon the agreement in question was fabricated or forged, nor was any foundation laid therein for seeking an expert opinion with regard to the genuineness of such signature. On the contrary, the aspect relating to the appending of the signature on the agreement stood admitted during the course of the proceedings. In such circumstances, an attempt made subsequently, when the suit had already reached the stage of recording of evidence, to introduce the opinion of a handwriting expert could not be treated as a mere innocuous elaboration of an existing plea.

4.2. The distinction between elaboration of a pleaded case and introduction of a wholly new case cannot be overlooked. Evidence is intended to substantiate the pleadings; it cannot be employed



as a device to supply the very foundation which the pleadings themselves do not contain. To permit a party to do so would not only alter the nature of the controversy at an advanced stage of the trial but would also cause manifest prejudice to the opposite party, who is entitled to know, from the pleadings themselves, the precise case which it is required to meet.

4.3. It is a settled principle of procedural law that a party cannot be permitted to lead evidence beyond the scope and ambit of its pleadings. The rule is founded upon fairness and elementary principles of natural justice. The opposite party cannot be taken by surprise by a new factual plea introduced for the first time through evidence. The pleadings must disclose the material facts constituting the case, and the evidence must remain confined to the case so pleaded. The petitioner, therefore, cannot seek to overcome the deficiency in the written statement by relying upon an expert report brought on record only at the stage of evidence.

4.4. The learned trial Court, in the considered opinion of this Court, has correctly appreciated this aspect of the matter. It has not proceeded upon any hyper-technical interpretation of the pleadings; rather, it has examined the substance of the case pleaded by the defendant and has found that the proposed evidence sought to be introduced was not founded upon any corresponding plea in the written statement. The order, therefore, does not suffer from any error apparent on the face of the record or from such perversity as may warrant exercise of the extraordinary supervisory jurisdiction of this Court.



4.5. The consequential order passed upon the application preferred by the plaintiff for removal of the affidavit of the handwriting expert from the record also calls for no interference. Once the Court found that the proposed expert evidence was sought to be introduced beyond the pleadings and declined to permit the same to be brought on record, its consequential removal from the record was but a natural corollary of that determination. The two orders are thus intrinsically connected and cannot be faulted merely because the petitioner seeks to characterise the latter as an independent procedural irregularity.

4.6. It is equally necessary to bear in mind the limited amplitude of the jurisdiction exercised by this Court under Article 227 of the Constitution. The supervisory jurisdiction is intended to keep subordinate Courts within the bounds of their authority and to ensure that the exercise of jurisdiction is lawful, judicious and procedurally fair. It is not an appellate jurisdiction in disguise. This Court, while exercising jurisdiction under Article 227, does not ordinarily sit as a Court of appeal to re-appreciate the evidence, reassess the factual conclusions of the subordinate Court or substitute its own view merely because another view may conceivably be taken on the same material.

4.7. Unless the order under challenge discloses patent perversity, gross dereliction of duty, manifest illegality, failure to exercise jurisdiction vested in the Court, exercise of jurisdiction in excess of that vested in it, or such grave procedural impropriety as results in failure of justice, interference under Article 227 would



not be warranted. The supervisory power is one of judicial restraint and not of routine correction. The Court must be conscious that excessive intervention at interlocutory stages may itself impede the expeditious progress of the underlying proceedings.

4.8. Viewed from this settled perspective, the impugned order withstands judicial scrutiny. The learned trial Court has considered the pleadings, applied the governing procedural principles and recorded a conclusion which is neither perverse nor manifestly unreasonable. There is, therefore, no occasion for this Court, in exercise of its supervisory jurisdiction, to embark upon a fresh appreciation of the pleadings or evidence, much less to substitute its own assessment for that of the competent trial Court.

4.9. This Court is also not persuaded by the submission that the proposed handwriting expert's report ought to have been accepted merely because it may have some bearing upon the controversy. The relevance of a piece of evidence cannot, by itself, dispense with the foundational requirement of a corresponding plea. The admissibility and probative value of evidence have to be considered within the framework of the pleadings and the issues arising between the parties. A party cannot be permitted to circumvent the discipline of pleadings by introducing evidence first and seeking to build a case around it thereafter.

4.10. Consequently, this Court finds the reasoning adopted by the learned trial Court to be legally sound and factually justified. No perversity, jurisdictional error or manifest miscarriage of justice



has been demonstrated so as to warrant interference under Article 227 of the Constitution of India.

5. Accordingly, both the petitions, being devoid of merit, are dismissed. The stay application(s), if any, and all pending application(s) stand disposed of.

(FARJAND ALI),J

442/Mamta Tak

