

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

S.B. Civil Writ Petition No. 814 / 2018

1. Girish Kumar Nagar S/o Lt. Sh. Navneet Lal Ji, Aged About 58
Years, R/o 28, Gangaur Ghat, Udaipur.

2. Ramesh Doshi S/o Sh. Kanhaiyalal Doshi, Aged About 55 Years,
R/o 41 Surano Ki Sehri, Maldas Street, Udaipur.

----Petitioners

Versus

1. Sh. Lakshminarayan S/o Sh. Motilal Menaria, R/o 36 Gangaur
Ghat, Udaipur.

2. Smt. Pushpa W/o Sh. Lakshminarayan Menaria, R/o 36 Gangaur
Ghat, Udaipur.

3. Sh. Sanjay Kumar S/o Sh. Lakshminarayan Menaria, R/o 36
Gangaur Ghat, Udaipur.

4. Sh. Deepak Kumar S/o Sh. Lakshminarayan Menaria, R/o 36
Gangaur Ghat, Udaipur.

5. Sh. Manish Kumar S/o Sh. Lakshminarayan Menaria, R/o 36
Gangaur Ghat, Udaipur.

6. Smt. Pushpa Devi W/o Lt. Sh. Navneet Lal Ji, R/o 28, Gangaur
Ghat, Udaipur.

7. Kirat Kumar S/o Lt. Sh. Navneet Lal Ji, R/o 28, Gangaur Ghat,
Udaipur.

8. Smt. Maya Mehta W/o Shailendra Ji, R/o 28, Gangaur Ghat,
Udaipur, At Present United States of America.

----Respondents

For Petitioner(s) : Mr. Muktesh Maheshwari

For Respondent(s) : Mr. Manish Shishodia

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

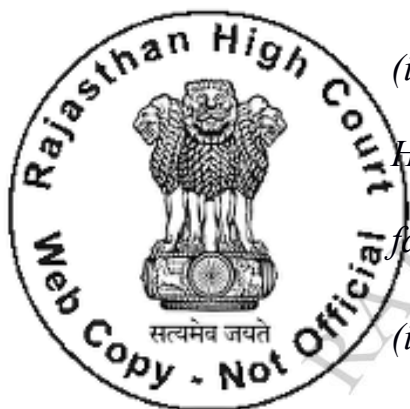
03/04/2018

1. The petitioner has preferred this writ petition for the
following reliefs :-

“(i) by an appropriate writ, order or direction, order dated 27.11.2017 (Annex.5) rejecting the application under Order 7 Rule 14(3) read with Section 151 of CPC may kindly be quashed and set aside and the application filed by the petitioner under Order 7 Rule 14(3) read with Section 151 of CPC may kindly be allowed in toto as prayed.

(ii) Any other appropriate writ, order or direction which this Hon`ble Court deems just and proper may kindly be passed in favour of the petitioner.”

(iii) writ petition filed by the petitioner may kindly be allowed with costs.”



2. At the outset, learned counsel for the petitioner states that his right to bring documents on record, which is basically a Will and certain other associated documents, has been denied by learned court below on the ground of delay, particularly, when the petitioner had knowledge of Will since 31.3.2006, which is a hyper-technical rejection. It was argued by learned counsel that the Will and other associated documents have not been refuted by the respondents, therefore, they ought to be brought on record liberally by the court below in exercise of provisions under Order 7 Rule 14 CPC.

3. Counsel for the respondent, however, opposed submission of the petitioner while justifying the impugned order refusing the documents to be taken on record as the documents were in knowledge of petitioner since 31.3.2006 and, therefore,

any kind of indulgence at this belated stage would deviate the proceedings. Counsel for the respondent further stated that the earlier the application moved by the petitioner under Order 6 Rule 17 CPC, which carried basically the pleadings pertaining to such documents has already been denied by the court below on 16.1.2017 and that order has been upheld by this Court.

After hearing learned counsel for the parties, this Court is of the opinion that application under Order 6 Rule 17 CPC regarding the pleadings of the documents in-question has been denied and moreover, the information of Will and other associated documents in-question being available with the petitioner since 31.3.2006, it would not be appropriate to grant any indulgence in the impugned order, hence, the writ petition is dismissed. However, the petitioner shall be entitled to raise legal proposition of entitlement of other defendants (except for defendant no.1) in light of provisions of Hindu Succession Act at the time of final arguments.

(DR. PUSHPENDRA SINGH BHATI)J.

Sanjay

सत्यमेव जयते

