



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

S.B. Civil Revision Petition No. 261/2025

1. Harigopal Sharma S/o Pusaram Sharma, Aged About 54 Years, Ii-B 19 Near Sdp School Murlidhar Vyas Colony Bikaner
2. Kailash Joshi S/o Alsiram Joshi, Aged About 50 Years, Sanrakashak Akhil Bharat Varshiya Shri Maharishi Gautam Shaikshanik Evam Parmarthik Trust R/o 432 Kohat Enclave Pitampura Delhi

----Petitioners

Versus

1. Navratan Joshi S/o Sh. Mangi Lal Joshi, 5/23 Ddp Nagar Rameshwar Nagar Madhuban Housing Board Jodhpur
2. Anil Upadhyay S/o Ramjeevan Upadhyay, 15 Sitaram Nagar Pal Link Road Jodhpur
3. Harnarayan Gautam S/o Mangi Lal Gautam, Village Garhsurya Tehsil Peepad City District Jodhpur
4. Santosh Sharma S/o Sh. Jagdish Prasad Sharma, Saran Nagar B Road Dhanesh Nagar Benad Road Jodhpur
5. Smt Veena Jajada W/o Lt. Sh. Suraj Jajada, 54-A Shakti Nagar Gali No 3 Pavata C Road Jodhpur
6. Narayan Prasad Upadhyay, 10/ 807 Malviya Nagar Jaipur Chief Election Officer Akhil Bharat Varshiya Shri Maharishi Gautam Shaikshanik Evam Parmarthik Trust
7. Hemaram Joshi, Assistant Election Officer D-175 Karni Nagar Bikaner
8. Jaidayal Sharma, Advocate, Assistant Election Officer-Ii-D-257, Murlidhar Vyas Colony Bikaner
9. Arun Prakash Joshi S/o Mohan Lal Joshi, Sanrakshak Akhil Bharat Varshiya Sh. Maharishi Gautam Shaikshanik Evam Parmarthik Trust, R/o 101 Devi Darshan Complex Tinkika Thane West Mumbai
10. Akhil Bharat Varshiya Shri Maharishi Gautam Shaikshanik Evam Parmarthik Trust, Through President, Ii- B 19 Near Sdp School Murlidhar Vyas Colony Bikaner
11. Assistant Commissioner, Devasthan Dept., Jodhpur Naini Bai Mandir Udai Mandir Jodhpur

----Respondents





For Petitioner(s) : Mr. G.P. Sharma with Mr. Mahesh Chand Gupta (through VC) and Mr. V.D. Gaur

For Respondent(s) : Mr. Rajesh Joshi, Sr. Advocate assisted by Mr. Yash Tripathi

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

(i) Arguments concluded on: 21/01/2026

(ii) Judgment reserved on: 21/01/2026

(iii) Full judgment/Operative part: Full judgment

(iv) Judgment pronounced on : 02/02/2026

1. The present revision petition under Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the Code") has been preferred by the petitioners-defendant Nos.1 & 10 challenging the order dated 03.11.2025 passed by the District Judge, Bikaner in Civil Original Suit No. 126/2025 (Navratan Joshi vs. Harigopal Sharma & Ors.), vide which application under Order VII Rule 11 of the Code read with Section 73 of the Rajasthan Public Trust Act, 1959 (hereinafter referred to as "Act of 1959"), has been rejected.

2. The facts in short are that plaintiff - Navratan Joshi (respondent No. 1 herein) has filed a civil suit for declaration and cancellation of the election of defendant No. 1 (petitioner No. 1 herein) to the post of President, Akhil Bharatvarshiya Shri Mahrishi Gautam Education and Charitable Trust and permanent injunction before the court of District Judge, Bikaner (hereinafter referred to as "the trial court"). The suit challenges unopposed election dated 26.03.2024 of defendant No. 1 – Harigopal Sharma as President of the registered trust, alleging that the election was illegal, biased





and conducted in violation of the trust's constitution and principles of natural justice. The plaintiff claims his valid nomination was wrongly rejected through arbitrary rules, absence of an opportunity of hearing, manipulated timelines and collusion by election officials to ensure defendant No.1's victory. He seeks cancellation of the election, declaration of it as void, directions for a fresh fair election and an injunction restraining defendant No. 1 from misusing trust property and funds.

3. During the pendency of suit, defendant Nos. 1 & 10 (petitioners herein) have moved an application under Order VII Rule 11 of the Code read with Section 73 of the Act of 1959 seeking rejection of the suit on the ground that the plaintiff has challenged unopposed election dated 26.03.2024 of defendant No. 1 as President of defendant No. 11 - trust and has sought that the said election be declared illegal and void. Such a dispute falls under Section 73 of the Act of 1959, hence, the suit is barred by law and the Court has no jurisdiction to entertain it. It is also submitted that the plaintiff has already raised identical objections before the Assistant Commissioner, Devasthan Department, where the matter is pending and fixed for hearing on 18.07.2025. The plaintiff has also suppressed material facts regarding earlier proceedings and has not approached the Court with clean hands. In view of the said pending proceedings and concealment of facts, the suit is not maintainable and liable to be dismissed.

4. The said application has been contested by the plaintiff by filing a reply to the application. It has been stated that the application filed by defendant Nos. 1 and 11 under Order VII Rule 11 of the Code read with Section 73 of the Act of 1959 is





misconceived, false and filed only to delay the proceedings. The present suit is not barred by Section 73 and is within the jurisdiction of the Court and validly challenges the illegal rejection of nomination papers and the election result, which can be questioned only through a civil suit. At the stage of Order VII Rule 11, only the plaint averments are to be considered, which clearly disclose a cause of action. The proceedings before the Devasthan authorities do not bar the suit. Therefore, it has been prayed that application of the defendants deserves rejection.

5. After hearing arguments of the parties, learned trial court vide its Order dated 03.11.2025 has declined to reject the suit and dismissed the application under Order VII Rule 11 of the Code read with Section 73 of the Act of 1959 observing that the suit concerns the declaration and cancellation of a Trust election for the post of President; Civil Courts have plenary jurisdiction to decide disputes unless expressly barred by statute; allegations of corrupt practices, connivance and election irregularities within the Trust are maintainable before Civil Courts as there is no express bar under the Act of 1959 including Section 73 and on a plain reading of the plaint, no statutory bar is attracted; hence, rejection of the plaint is unwarranted. Aggrieved, this revision petition has been preferred by the petitioners/defendant Nos. 1 & 10 before this Court.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners, while assailing the impugned order, has submitted that suit in question seeks to challenge the election of petitioner/defendant No. 1 as President of a registered public trust, which was held on 26.03.2024





pursuant to the directions issued by the Assistant Commissioner, Devasthan. It has been contended that a plain reading of the plaint clearly reveals that plaintiff have concealed material facts, particularly with regard to the filing of objections before the Assistant Commissioner.

7.1 It has been further submitted that issue relating to the change of trusteeship arising out of the said election was pending consideration and inquiry under Section 23 of the Act of 1959 before the Assistant Commissioner. Therefore, in view of the pendency of the said statutory proceedings, the jurisdiction of the civil court is expressly barred under Section 38 & 73 of the Act of 1959.

7.2 Learned counsel has also submitted that the trial court failed to appreciate the mandatory bar contained under Section 73 of the Act of 1959. Disputes relating to the management, administration and elections of a public trust fall within the exclusive jurisdiction of the Assistant Commissioner, Devasthan, and the civil court can be approached only in the manner expressly provided under the Act. The plaintiffs, having already invoked the jurisdiction of the Assistant Commissioner, could not have maintained a parallel civil suit.

7.3 Learned counsel further argued that civil suit is not maintainable in view of Section 22 of the Act, as no final entry under Section 21/23 has yet been made. On these grounds, it has been urged that no cause of action has arisen in favour of the plaintiffs and that the suit being barred by law ought to have been rejected.





7.4 In support of his contentions, learned counsel for the petitioners has relied upon the following decisions :-

- i. **Sharad Kumar vs. Raghuveer Singh** reported in **2005 Supreme (Raj) 2597**
- ii. **Mohan Singh vs. Civil Judge (JD) and Judicial Magistrate, Ringus, District Sikar and Ors.** reported in **2014 Supreme (Raj) 693**
- iii. **S.P. Chengalvaraya Naidu (Dead) by LR's and Others vs. Jagannath (Dead) by LR's and others** reported in **AIR 1994 SC 853**
- iv. **Pukhraj Soni vs. Seema Spouse** reported in **2018 4 DNJ 1663**

8. *Per contra*, learned senior counsel for the respondent-plaintiff has supported the impugned order and submitted that at the stage of adjudicating an application under Order VII Rule 11 of CPC, the Court's examination is confined solely to the averments made in the plaint, which are to be presumed to be true. The defenses raised by the defendant or the pendency of proceedings before the Assistant Commissioner are irrelevant at this stage. It has been further submitted that a bare perusal of the plaint reveals specific allegations of corrupt practices, mala fide conduct and collusion between the Election Officer and petitioner No. 1 - defendant in the conduct of the election and such averments clearly disclose a cause of action that necessitates adjudication on evidence and therefore, cannot be summarily rejected.

8.1 Learned counsel has also highlighted that under Section 9 of CPC, civil courts possess plenary jurisdiction to try all civil suits unless expressly or impliedly barred by law. The Act of 1959 does





not prescribe any specific forum or mechanism for adjudicating disputes relating to the election of office bearers, particularly in cases alleging fraud, corruption and collusion. It is argued that in the absence of a statutory remedy, the jurisdiction of the civil court is not ousted.

8.2 It has been further submitted that Section 73 of the Act of 1959 bars only matters that are required to be decided by an authority under the Act and since election disputes are not contemplated under the Act, the bar under Section 73 is inapplicable to the present case. It has also been submitted that Section 38 of the Act of 1959 deals with authority of the Assistant Commissioner to pass necessary order concerning the management of the public trust, which is not the issue in dispute in the suit.

8.3 Learned counsel has also pointed out that proceedings pending before the Assistant Commissioner concern entries or change reports under the Act and are entirely distinct from the present civil suit, which challenges validity of the election on the grounds of fraud, corruption and mala fides.

8.4 Finally, it has been submitted that the trial court correctly dismissed the petitioners' application under Order VII Rule 11 of CPC, having duly considered the averments in the plaint and the settled legal position. Therefore, it has been prayed that the present revision petition be dismissed.

8.5 In support of his contentions, learned counsel for the respondent has relied upon the following decisions :-





- i. **Nathu Lal Sharma vs. Omprakash & Ors.**
(S.B. Civil Revision Petition
No.72/2022) decided on 26.04.2022
- ii. **Ashok Kumar Pandey vs. Kamal Kumar**
Pandey (S.B. Civil Revision Petition
No.91/2022) decided on 02.08.2023
- iii. **Dhulabhai etc. vs. State of M.P. and**
others reported in 1969 AIR (SC) 78



9. I have considered the submissions advanced by the learned counsel for the rival parties and gone through the material available on record.

10. It is trite law that while considering an application under Order VII Rule 11 of the Code, the court has to examine only the averments in the plaint to determine whether the suit is barred by law or does not disclose a cause of action. Defence taken by the defendants or disputed questions of fact cannot be looked into at this stage. A bare perusal of the plaint in the present case reveals specific allegations of mala fide conduct, corrupt practices and collusion between the election officer and the elected candidate in the conduct of the election. The challenge is not merely to an administrative act but to the validity of the election itself on grounds which require evidence.

10.1 Section 73 of the Act of 1959 bars the jurisdiction of civil courts only in respect of matters which are required to be decided by authorities constituted under the Act, the Act of 1959 does not provide any specific mechanism for adjudication of disputes relating to the election of the office bearers of a public trust, particularly where allegations of fraud and corruption are raised. Whereas Section 38 *ibid* deals with authority of Assistant



Commissioner to pass the necessary order concerning management of the public trust, which is not the issue in dispute in the present case. The proceedings under Sections 21 to 23 of the Act pertain to entries and change reports and do not encompass adjudication of election disputes.

10.2 The principles laid down by the Hon'ble Supreme Court in *Dhulabhai vs. State of M.P.* clearly enunciate that exclusion of civil court jurisdiction is not to be readily inferred unless there is an express bar or a complete statutory mechanism providing an adequate alternative remedy. In the absence thereof, the jurisdiction of the civil courts remains intact.

10.3 The judgments relied upon by the petitioners in *Sharad Kumar* (supra) and *Mohan Singh* (supra) were rendered in different factual contexts, where statutory provisions expressly barred civil court jurisdiction and therefore, are not applicable to the facts of the present case. Similarly, *Pukhraj Soni* (supra) dealt with a distinct cause of action and does not advance the petitioners' case.

10.4 In the case of *Dhulabhai* (supra), it has been held by the Hon'ble Supreme Court as under :-

Neither of the two cases of Firm of Illuri Subayya(1) or Kamla Mills(2) can be said to run counter to the series of cases earlier noticed. The result of this inquiry into the diverse views expressed in this Court may be stated as follows :-

(1) Where the statute gives a finality to the orders of the special tribunals the Civil Courts' jurisdiction must be held to be excluded if there is adequate remedy to do what the Civil Courts would normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.





(2) *Where there is an express bar of the jurisdiction of the court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court.*

Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in Civil Courts are prescribed by the said statute or not.....

(7) *An exclusion of the jurisdiction of the Civil Court is not readily to be inferred unless the conditions above set down apply."*

A coordinate Bench of this Court in the case of **Nathu Lal**

Sharma (supra) held as under :-

"6. *This Court finds that such observations/findings of the trial court are not within parameters of law. Prima facie, the dispute of election raised in the present civil suit does not attract the application of Section 23 of the Act of 1959 and consequently, the bar of jurisdiction of civil court as enshrined under Section 73 of the Act of 1959 is not applicable. When on bare perusal of the plaint, the dispute raised therein, and the issue involved therein, do not attract the bar of Section 73 of the Act, then it is not desirable to frame a preliminary issue in that respect. Hence, findings of trial court to this effect cannot be countenanced however, merely for the reason that the trial court expressed some different reasons to dismiss the application, argument of counsel for the petitioner to declare the present civil suit as barred under Section 73 of the Act of 1959 cannot be accepted. In the judgment of Sharad Kumar (supra), referred by counsel for petitioner, there was no dispute relating to election of any candidate of Trust. This Court does not have any disagreement with proposition of law settled in the judgment, however, the same was based in different context and wholly on different facts, whereas, in the present suit the controversy between parties revolves around the election dispute. Under the scheme of Rajasthan*





Public Trust Act, 1959, there is no specific provision to deal with dispute of election in the Trust. Moreso, when an election in the present suit is challenged on the ground of adopting a corrupt practice, and the connivance between the Election Officer and elected candidate, as also several other illegalities/irregularities alleged in the plaint. This Court finds that such nature of disputes are amenable and to be adjudicated by civil court only, unless and until there is no specific bar under the statute.

7. *Hon'ble the Supreme Court in case of Dhulabhai vs. State of Madhya Pradesh reported in [AIR 1969 SC 78] has discussed the issue about the jurisdiction of the civil court. Placing reliance on the maxim that "ubi jus ibi remedium", hon'ble the Supreme Court has observed that the civil court has plenary jurisdiction to entertain all kinds of disputes, and ouster of the jurisdiction of civil court may not be readily inferred, unless and until, there is an express bar by any statute. The aforesaid proposition of law expounded by Hon'ble the Supreme Court has been followed in umpteen number of cases subsequently.*

8. *In view of discussion made hereinabove, the revision petition is devoid of merits and the same is hereby dismissed."*

Applying the ratio of law laid down in aforesaid cases, this Court finds that adjudication in **Nathu Lal Sharma's** case squarely covered the issue in the present case, wherein it has been held that disputes relating to election of trust office bearers, particularly when founded on allegations of corrupt practices and connivance, are amenable to civil jurisdiction in absence of a statutory bar.

11. In view of the aforesaid discussion, this Court finds no jurisdictional error, material irregularity or perversity in the order passed by the learned trial court warranting interference in revisional jurisdiction.





12. Consequently, present revision petition being devoid of merit, is hereby dismissed. The impugned order dated 03.11.2025 passed by the trial court stands affirmed.

(MUKESH RAJPUROHIT),J

/Jitender//-

