



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

S.B. Civil Writ Petition No. 20918/2026
CNR: RJHC010883062026 | URN: CW / 35655U / 2026

1. Smt. Nikita D/o Late Shri Ramswaroop Ji Dhoot Wife Of Vipin Rathi, Aged About 34 Years, Resident Of C-9, First Extension, Kamla Nehru Nagar, Jodhpur (Raj.).
2. Parmeshwari Devi W/o Late Shri Ramswaroop Ji Dhoot, Aged About 56 Years, Resident Of C-9, First Extension, Kamla Nehru Nagar, Jodhpur (Raj.).
3. Smt. Jaishree D/o Late Shri Ramswaroop Ji Dhoot Wife Of Dharendra Soni, Aged About 34 Years, Resident Of C-9, First Extension, Kamla Nehru Nagar, Jodhpur (Raj.).

-----Petitioners

Versus

1. Raju Singh S/o Amar Singh, Resident Of Dechu, Tehsil Dechu, District Phalodi (Raj.).
2. Jodhpur Development Authority, Through Secretary, Jodhpur Development Authority, Jodhpur (Raj.).

-----Respondents

For Petitioner(s) : None-present
For Respondent(s) : None-present

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

22/08/2026

1. Lawyers are abstaining from appearing in the matter pursuant to the call for suspension of work given by their Association. I have, nevertheless, perused the writ petition to ascertain the nature of the challenge raised therein. Having regard to the fact that the controversy involved is of a rather trivial nature and, more particularly, considering the stage at which the proceedings presently stand, I deem it appropriate, in the interest of expeditious disposal, to proceed with and decide the writ petition today itself.



2. By way of filing the instant petition under Article 226 of the Constitution of India, the petitioners have called in question the order dated 19.08.2026 passed by the learned Additional Civil Judge and Judicial Magistrate No.1, Jodhpur Metropolitan, whereby the plaint presented by the petitioners in respect of Plot No.8, situated at Kamla Nehru Nagar, First Extension Scheme, Jodhpur, has not been registered and the petitioners have been directed to furnish the market value of the suit property and to pay court fee on the basis thereof. The grievance essentially is that, at the stage anterior to registration of the plaint, the learned Court below has treated the suit as one for declaration with consequential injunction merely because the plaint contains an assertion that proprietary right over the suit property has already accrued by virtue of long-standing adverse possession, whereas the substantive relief sought against the respondent is protection of the existing possession by way of permanent and simpliciter injunction. The further grievance is that the learned Court below, while undertaking such exercise, has entered into questions concerning the legal effect of the pleaded possession and acquisition of title by adverse possession, which, according to the nature of the controversy, require adjudication in the suit and not determination at the nascent stage of institution and registration of the plaint.





3. The material available on record reveals that the petitioners presented a civil suit before the learned Additional Civil Judge and Judicial Magistrate No.1, Jodhpur Metropolitan, concerning Plot No.8 situated at Kamla Nehru Nagar, First Extension Scheme, Jodhpur. The plaint was presented on 17.08.2026. The suit seeks protection of the possession claimed over the aforesaid property and permanent injunction against interference, entry, dispossession or disturbance of such possession. The plaint contains averments regarding actual, peaceful, continuous, open and uninterrupted possession of the petitioners and their predecessors-in-title, with the possession of the predecessors being traced from the year 1987 and that of the petitioners from the year 2010. It is further stated that Plot No.8 adjoins Plot No.9 belonging to the petitioners and that Plot No.8 has been specifically described as the northern boundary of Plot No.9 in the registered sale deed relating to Plot No.9. The plaint further refers to the suit property being vacant and without construction, while maintaining that its physical condition did not result in cessation of the possession claimed over it. The possession has been described as open, peaceful, continuous and adverse, with the consequent claim that title had already accrued by adverse possession.

4. The plaint further discloses that the immediate cause for approaching the Civil Court arose from the alleged





interference and threatened forcible dispossession on 16.08.2026. The operative injunction sought is against the respondent entering upon the suit property, taking possession thereof, dispossessing the petitioners, interfering with their possession or otherwise obstructing the petitioners' claimed rights over the property. Along with the plaint, an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 was also presented seeking interim protection during pendency of the proceedings. The plaint was taken up by the learned Court below on 19.08.2026 for scrutiny of the question of valuation and court fee. Upon examining the plaint, the learned Court below concluded that the first relief constituted a declaration that title had accrued to the petitioners by adverse possession and that the second relief was consequential permanent injunction. On that basis, Section 24(b) of the Rajasthan Court Fees and Suits Valuation Act, 1961 was invoked and accordingly, the petitioners were directed to furnish the market value of the suit property and value the declaratory relief accordingly.

5. At the outset, it is appropriate to deal with the question as to whether notice to the respondents is required at this stage. The proceedings before the learned Court below were at the stage anterior to registration/institution of the plaint. No summons had been issued, no written statement had been filed and no defence had come on record. The controversy





before the Court below was confined to the presentation and registration of the plaint and the question of the valuation of suit and fee payable thereon. The respondent, therefore, had not yet entered the arena of the suit so as to acquire a right of audience in relation to the merits of the claim. The exercise at this stage is essentially between the Court and the person presenting the plaint, for the limited purpose of examining whether the plaint can be received, allowed to be instituted and registered in accordance with law. Section 26 of the Code of Civil Procedure provides that a suit is instituted by presentation of a plaint, while Order IV Rule 1 governs commencement of a suit by presentation of the plaint and Order IV Rule 2 contemplates entry of the particulars of every suit in the register of civil suits. The statutory scheme itself thus distinguishes the presentation and institution of the suit from the subsequent stage at which summons is issued to the defendant.

6. This Court, therefore, does not consider issuance of notice to the respondents necessary for adjudicating the limited controversy arising from the impugned order. The respondents have not yet been called upon to answer the plaint and their defence is not the subject matter of consideration at this stage. Indeed, even if the question were to arise after institution, any examination of the plaint at the threshold would necessarily be confined to the permissible statutory parameters and would not amount to an





adjudication of the merits of the controversy. The present exercise is accordingly undertaken without calling upon the respondents, since no adjudication adverse to their substantive defence is being undertaken and the controversy concerns the correctness of withholding registration of the plaint at the threshold.

7. The principal question which arises for consideration is, therefore, whether the learned Court below was justified in withholding registration of the plaint by treating the assertion regarding acquisition of title by adverse possession as an independent declaratory relief and, on that basis, directing valuation of the suit on the market value of the property, or whether such exercise travelled beyond the permissible scope of scrutiny at the stage of institution and registration.

8. There can be no quarrel with the proposition that the Court is required to examine the question of court fee and valuation at the appropriate stage. Section 11(1) of the Rajasthan Court Fees and Suits Valuation Act, 1961 expressly provides that, in every suit instituted in any Court, the Court shall, before ordering the plaint to be registered, decide, on the materials and allegations contained in the plaint and the statement under Section 10, if any, the proper fee payable thereon. Thus, the learned Court below was undoubtedly entitled, and indeed required, to examine the



question of court fee before registration. However, the statutory obligation to examine court fee does not confer jurisdiction to decide, at that stage, every disputed question which may ultimately arise from the pleadings. Section 11 itself draws a distinction between the initial determination on the basis of the plaint and the subsequent procedure where a defendant raises an objection regarding valuation or sufficiency of court fee during trial.

9. The distinction is of considerable significance in the present case. The examination contemplated at the stage of registration is a threshold examination of the plaint, its allegations, the reliefs actually claimed, the forum, jurisdiction and the statutory basis on which court fee is payable. It is not an occasion for conducting a trial, determining the evidentiary worth of the pleaded possession, deciding whether adverse possession has legally matured into title, or conclusively determining whether the plaintiff will ultimately succeed in the relief claimed. The expression "materials and allegations contained in plaint" occurring in Section 11(1) necessarily requires the Court to read the plaint as a whole, but does not authorise the Court to travel beyond the plaint and undertake an adjudication upon disputed questions of fact or mixed questions of fact and law which are matters for regular adjudication.



10. The distinction between an assertion constituting the foundation of a right and a substantive prayer seeking creation or declaration of a right is equally material. A plaintiff may assert an existing right and may explain the source, foundation or legal basis of that right in the plaint. Such an assertion cannot, by itself and irrespective of the actual relief sought, be mechanically converted into an independent declaratory relief. The nature of a suit has to be gathered from the plaint as a whole, the cause of action pleaded and, more particularly, the substantive relief which the plaintiff seeks the Court to grant against the defendant. The Court cannot isolate one sentence or one component of a prayer clause and, by disregarding the structure and substance of the plaint, assign to the suit a character different from that disclosed by the plaint read as a whole.

11. In the present case, the plaint contains a specific assertion that the petitioners and their predecessors have remained in actual, peaceful, continuous, open and uninterrupted possession over the suit property; that the predecessors' possession is traced to 1987; that the petitioners' possession is traced to 2010; that the possession is stated to have been open and adverse; and that, according to the plaint, title has consequently already accrued by adverse possession. The plaint further discloses an immediate cause of action arising from alleged interference and threatened dispossession on 16.08.2026. The operative relief is directed against the





respondent and seeks to permanently restrain entry upon the property, taking possession thereof, dispossessing the petitioners, interfering with their possession or otherwise obstructing their claimed rights.

12. The mere circumstance that the plaint contains an assertion that title has already accrued by adverse possession cannot, at the threshold, be treated as conclusive of the proposition that the suit necessarily seeks a declaratory decree within the meaning of Section 24 of the Rajasthan Court Fees and Suits Valuation Act. Section 24 undoubtedly governs a suit in which a declaratory decree or order is actually sought, whether with or without consequential relief, and clause (b) provides for computation of fee on one-half of the market value where the prayer is for declaration with consequential injunction concerning immovable property. The question, however, is anterior to the application of Section 24: namely, whether, on a meaningful and holistic reading of the plaint, the first portion of the prayer is truly an independent prayer for a declaratory decree or whether the statement regarding title merely forms the basis upon which protection of existing possession is sought.

13. The learned Court below has proceeded on the former assumption without sufficiently distinguishing between the two concepts. The fact that a plaint states that a particular right or title has already accrued is not synonymous with a



prayer that the Court should create, confer or declare such right for the first time. The distinction is particularly material where the plaintiff approaches the Civil Court primarily for protection against threatened dispossession and relies upon a claimed existing right and possession as the foundation of such relief. Whether that foundation would ultimately established is a matter different from the character of the relief for which the suit is instituted.



14. The Supreme Court in ***K.M. Krishna Reddy v. Vinod Reddy & Anr., 2023 INSC 877***, while considering a suit for perpetual injunction based upon title, recognised that the mere presence of a question concerning title does not invariably render a suit for injunction incompetent or necessarily require a separate declaration of title. The Court held, in the factual setting before it, that where the plaintiff's title was not under cloud and the adverse-possession plea was set up by the defendant, a suit for perpetual injunction could be maintained without a declaration of ownership. The judgment thus underscores an important distinction: the mere involvement of title or adverse possession does not, in every case, automatically transform an injunction suit into a declaratory suit.

15. The aforesaid principle has to be applied with due regard to the precise pleadings in each case. It would equally be incorrect to hold, merely on the strength of the aforesaid



judgment, that every suit containing an express and independent prayer for declaration can be treated as a simpliciter injunction suit. The Court must examine the plaint as a whole and determine the true substance of the relief. In the present matter, however, such determination cannot properly be converted into an adjudication of whether the petitioners have actually perfected title by adverse possession. The latter question necessarily depends upon the nature, continuity, openness, hostility and legal effect of the possession pleaded and, if disputed, upon the evidence to be led by the parties.

16. The learned Court below has, in substance, travelled into precisely that area. The plaint refers to possession of the predecessors from 1987, possession of the petitioners from 2010, the open and peaceful nature of such possession, the alleged adverse character thereof, the vacant condition of the property, the adjoining Plot No.9 and the description of Plot No.8 as its northern boundary in the registered sale deed. Whether these facts, individually or cumulatively, are sufficient to establish adverse possession is not a matter capable of being conclusively determined merely from the presentation of the plaint. Whether the possession was hostile to the true owner, when it became adverse, against whom it operated, whether all the ingredients necessary for adverse possession are established, and whether the requisite statutory period has been completed are questions



which, if placed in controversy, may require pleadings, issues and evidence. They cannot be converted into a mini-trial under the guise of determining court fee at the threshold.

17. The principle that a mini-trial is impermissible for determining valuation at the threshold finds support in the decision of co-ordinate bench of this Court in Smt. Sharda Devi v. Iqbal Singh & Ors., S.B. Civil Revision Petition No.105/2013, decided on 27.02.2015. Therein, while considering the question of court fee and valuation, co-ordinate bench of this Court observed that a mini-trial for ascertaining the correct valuation of the land is not warranted at the threshold and that court fee is to be examined on the basis of the pleadings contained in the plaint. The decision further recognises that questions involving disputed factual matters cannot be prematurely converted into a trial while examining the preliminary question of court fee.

18. The said principle assumes greater significance in the present matter because, as on 19.08.2026, there was no written statement, no defence and no evidence before the learned Court below. The question whether the alleged long possession actually matured into title by adverse possession was, therefore, not a question arising for adjudication at that stage. It was, at best, a proposition contained in the plaint which had to be considered for the limited purpose of





determining the legal character of the relief and the appropriate procedural course. A Court cannot anticipate a defence, formulate the defendant's case in its absence and then adjudicate upon such anticipated defence before the defendant has entered appearance.

19. The same consideration applies to the question whether a suit founded upon alleged adverse possession can proceed without an independent declaration of title. That is a substantive question concerning maintainability and the ultimate merits of the suit. It may arise for consideration at the appropriate stage if the pleadings and the defence make it necessary. It cannot be assumed, at the stage of registration itself, that the suit must necessarily fail because the plaintiff has not sought a declaratory decree, particularly when the plaint expressly proceeds on the footing that the claimed right already exists and the immediate relief sought is protection against interference and dispossession. To decide otherwise at the threshold would amount to deciding a substantive question of law before the suit has even entered the ordinary course of adjudication.

20. It is equally important to bear in mind that the threshold scrutiny of a plaint is necessarily limited and cursory. The Court is required to examine whether the plaint has been presented before the competent forum, whether the Court possesses the requisite territorial and pecuniary jurisdiction,



whether the plaint satisfies the statutory requirements for institution, and what court fee is prima facie payable on the basis of the relief and allegations disclosed in the plaint. The scrutiny must be meaningful, but it must remain a scrutiny and not become adjudication. Complicated questions of law, disputed questions of fact, substantial questions concerning title, the evidentiary value of documents, and the ultimate legal consequences of the pleaded possession ordinarily require regular hearing and cannot be conclusively determined merely because the plaint is being presented for registration.

21. The statutory scheme itself demonstrates why such restraint is necessary. Section 11(1) requires the Court to determine the proper fee before registration on the basis of the plaint and material filed under Section 10. At the same time, Section 11(2) expressly contemplates that a defendant may thereafter plead that the subject matter has not been properly valued or that the fee paid is insufficient, whereupon the question is to be heard and decided before the hearing of the suit as contemplated under the law. Thus, the statutory scheme does not envisage that every conceivable controversy concerning valuation must be finally and conclusively adjudicated in a manner that prejudices the merits before the defendant even enters the suit.



22. The learned Court below was undoubtedly correct to observe that court fee and valuation have relevance to jurisdiction and that the plaint cannot be mechanically registered without examining the statutory requirement of proper fee. However, the correctness of that general proposition does not validate the further exercise undertaken in the impugned order. The jurisdiction to examine valuation is not jurisdiction to decide the ultimate legal effect of adverse possession. The former is a threshold statutory exercise; the latter is an adjudicatory exercise. The two cannot be conflated.

23. The impugned order also proceeds by treating the first portion of the prayer clause in isolation. The contention regarding the alleged acquisition of title by adverse possession is immediately followed by the operative prayer seeking permanent restraint against the respondent from entering upon the property, taking possession, dispossessing the petitioners, interfering with their possession or otherwise obstructing their rights. The latter relief is not merely incidental in the practical sense; it is the relief which directly addresses the immediate cause of action disclosed in the plaint, namely the alleged interference and threatened dispossession on 16.08.2026. The plaint, therefore, could not have been characterised without first considering the interrelationship between the two portions of the prayer clause and the factual foundation pleaded for the injunction.





24. The Court below has also proceeded on the basis that because the plaint contains a statement that title has accrued by adverse possession, the declaration contemplated by that statement necessarily constitutes a separate declaratory relief. Such an approach overlooks the distinction between the assertion of an existing right and a prayer for a declaration by the Court creating or formally adjudicating that right. If a person states that he is already the owner and seeks an injunction to protect possession, the statement of ownership is the foundation of the injunction claim. Whether the person is in fact the owner is a matter which may become an issue in the suit. The mere pleading of the source of an existing right does not, without more, determine the character of the substantive relief of the suit that too at the inception of scrutiny of suit for the purpose of registration. There should be a fine distinction of degree of examination of suit for the purpose of registration and the critical appreciation required in trial.

25. At this juncture, it is also necessary to notice that the suit property is stated to be vacant. That circumstance may assume significance while adjudicating the actual nature and quality of possession. Whether possession of a vacant plot can be established in the manner pleaded; whether the acts relied upon constitute sufficient possession; whether the predecessors' possession can legally be tacked to that of the petitioners; whether the possession was adverse and hostile;





and whether the statutory requirements of adverse possession are fulfilled are all questions which may have to be considered at the appropriate stage. None of these questions can legitimately be prejudged while deciding whether the plaint should enter the register of civil suits.

26. The Court below has thus effectively proceeded from the pleaded facts to their ultimate legal consequence. Such an approach is impermissible at the stage of registration and institution of suit. The Court was not required to decide whether the petitioners would ultimately succeed in establishing adverse possession. Nor was it required to determine, in advance, whether the respondent would be able to dislodge the claim. The appropriate course was to examine the plaint in its entirety, determine the nature of the relief for the limited purpose of registration and court fee, and thereafter allow the suit to proceed in accordance with law.

27. It is also significant that the plaint was presented on 17.08.2026 and the impugned order was passed on 19.08.2026. Within this extremely short threshold period, the learned Court below undertook an elaborate examination of the alleged adverse possession and its legal consequence and, on that basis, directed valuation upon the market value of the property. The very chronology demonstrates that the Court entered into a controversy which, by its nature, called



for fuller adjudication. A proceeding at such a nascent stage ought not to become a substitute for the trial of the suit.

28. The Court is conscious that Section 24(b) of the Rajasthan Court Fees and Suits Valuation Act applies where the suit is truly one for declaration with consequential injunction concerning immovable property, and in such a case the fee is to be computed on one-half of the market value. Equally, Section 26 specifically deals with suits for injunction and provides the statutory basis for computation of fee in such suits. The question, therefore, is not whether the statutory provisions cited in the impugned order exist; they unquestionably do. The question is whether the plaint, on a proper and legally permissible reading at the stage of registration, could be conclusively placed within Section 24(b) merely because it contains an assertion of already-accrued title by adverse possession. For the reasons recorded hereinabove, such conclusion was premature and this can be a subject matter of trial.

29. The learned Court below has also failed to keep distinct the question of valuation from the question of ultimate maintainability. The valuation provision is attracted by the relief actually sought and the statutory classification applicable to that relief. The ultimate question whether the plaintiff has established the factual and legal foundation for the relief is a different matter. The Court cannot determine



the latter in order to arrive at the former where the determination requires adjudication of disputed facts and substantive questions of law.

30. The observation in the impugned order that the entire plaint must be read as a whole is, in principle, unexceptionable. Indeed, that is precisely the approach which ought to have led to a different conclusion. Reading the plaint as a whole discloses a claim founded upon long-standing possession, a claimed existing title arising therefrom, an immediate threat of interference and a substantive prayer for permanent restraint against dispossession and interference. The first part of the prayer cannot be detached from the factual and operative structure of the plaint and treated as an independent declaratory suit without determining whether the Court is being asked to grant a declaration as the principal relief or is merely being informed of the legal basis on which the injunction is sought.

31. The Court is not, at this stage, expressing any final opinion on whether the petitioners have acquired title by adverse possession, whether the pleadings ultimately establish the ingredients of adverse possession, whether the respondent may successfully dispute the petitioners' possession or title, or whether any declaratory relief may ultimately become necessary or not in view of the defence and issues that may emerge. All such questions are expressly left open for



consideration by the learned Civil Court at the appropriate stage and in accordance with law.

32. What is impermissible is only the premature adjudication of those questions for the purpose of refusing registration. If the suit, after registration and upon completion of pleadings, gives rise to an objection regarding maintainability, valuation, court fee, title, possession or the necessity of declaratory relief, the learned Court shall be competent to consider such question in accordance with the governing provisions of the Code of Civil Procedure and the Rajasthan Court Fees and Suits Valuation Act. The present order shall not be understood as foreclosing any such legally available objection. For sure, the defendant would be at liberty to raise such defence after entrance in the suit proceeding.

33. The consequence of the contrary approach would be that every suit in which the plaintiff explains the source of an asserted right, particularly in cases involving possession, title, easement, adverse possession or other proprietary claims, could be subjected to an adjudication of its ultimate legal sustainability before registration. Such an approach would unduly enlarge the scope of threshold scrutiny and, in appropriate cases, would leave little or nothing for trial. The judicial discipline required at the threshold is therefore one of restraint: the Court must examine what is necessary for





institution and registration, while leaving substantive and disputed questions to the ordinary process of adjudication.

34. In the facts of the present case, the learned Court below ought to have confined itself to the permissible threshold examination and ought not to have assumed that the suit was incapable of proceeding without a declaratory relief merely because the plaint contains the pleaded case that title had already accrued through adverse possession. The withholding of registration on that premise has consequently resulted in the petitioners being deprived, at the very inception, of consideration of their suit and their application under Order XXXIX Rules 1 and 2 CPC.

35. For the foregoing reasons, this Court is of the considered view that the impugned order dated 19.08.2026 cannot be sustained. The learned Court below exceeded the permissible scope of scrutiny at the stage of registration by entering into the substantive legal effect of the pleaded adverse possession and by treating the assertion of an already-existing title as an independently determinative declaratory relief without first allowing the suit to proceed in the ordinary course. The defendants shall be at liberty to raise all legitimate objections after entering appearance.

36. Consequently, the instant writ petition is allowed. The order dated 19.08.2026 passed by the learned Additional Civil





Judge and Judicial Magistrate No.1, Jodhpur Metropolitan, is quashed and set aside.

37. The learned Court below is directed to register the plaint in accordance with law and thereafter deal with the matter as a regular civil suit, including the application under Order XXXIX Rules 1 and 2 CPC, strictly in accordance with law and uninfluenced by any observation contained in the present order touching upon the ultimate merits of the claim, title, possession, adverse possession or maintainability of the substantive relief.

38. It is clarified that this Court has expressed no final opinion on the petitioners' claim of title by adverse possession or on any issue which may arise upon completion of pleadings. All such questions, including any legally permissible objection concerning court fee, valuation, jurisdiction, maintainability or the nature of relief, are left open to be considered by the learned Civil Court at the appropriate stage in accordance with law.

39. The stay application, if any, stands disposed of accordingly.

(FARJAND ALI),J

35/Mamta Tak

