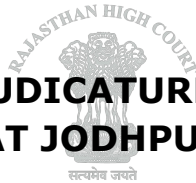




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Civil Writ Petition No. 22485/2026

CNR: RJHC010926702026 | URN: CW / 38763U / 2026

Radha Sharma Alias Anjubala W/o Ghanshyam Das Sharma D/o Triloki Nath, Aged About 69 Years, Resident Of Post Office, Rormazara, Tehsil Garhshankar, District Hoshiyarpur, Punjab 144527

-----Petitioner

Versus

1. Anupam D/o Late Shri Ghanshyam Das Sharma W/o Shri Ajya Gargi, Aged About 47 Years, Resident Of D-50, Goutam Nagar, First Floor, Near Gurudwara Singh Sabha, New Delhi 10049.
2. Smt. Kamal Sharma W/o Late Shri Ghanshyam Das Sharma, Resident Of Shankar Oil Mills, Ward No. 9, Opposite Publice Park, Padampur.
3. Kirti Sharma D/o Late Shri Ghanshyam Das Sharma, Resident Of Shankar Oil Mills, Ward No. 9, Opposite Publice Park, Padampur.
4. Mimanshak S/o Late Shri Ghanshyam Das Sharma, Resident Of Shankar Oil Mills, Ward No. 9, Opposite Publice Park, Padampur.

-----Respondents

For Petitioner(s) : Mr. Ankit Somani

For Respondent(s) : Mr. Narendra Thanvi

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

23/09/2026

1. With the consent of both the parties, the matter is being finally heard at this stage.
2. The present civil writ petition has been filed assailing the order dated 17.08.2026 passed by learned District Judge, Sriganaganagar in Civil Regular Case No. 40/2018, whereby the



application filed by the petitioner under Order 1 Rule 10(2) CPC was rejected.

3. The case of the applicant-petitioner is that she was the legally wedded wife of the deceased, Ghanshyam Das Sharma. Learned counsel for the applicant-petitioner submits that a suit came to be filed by the daughter of the first wife against the fourth wife and her children, whereas the applicant-petitioner is the only second legally wedded wife. Learned counsel for the applicant-petitioner submits that the suit was filed with the averment that the applicant-petitioner had been divorced by Ghanshyam Das Sharma and had thereafter solemnized marriage with one Kamal Sharma.

4. Learned counsel for the applicant-petitioner submits that this amounts to an admission on the part of the defendants-respondents that a marriage had been solemnized between the deceased Ghanshyam Das Sharma and Radha Sharma @ Anjubala. Learned counsel for the applicant-petitioner submits that, therefore, there was no requirement on her part to prove whether she had been married or not. He submits that the claim of the applicant-petitioner was that she had never been divorced, whereas the defendants-respondents are now agitating the issue that she had been divorced. He further submits that, in order to prove the fact of divorce, a decree of divorce would be required and, if any such divorce had taken place, the defendants-respondents could have proved the same by producing the relevant document in support of their claim. He, therefore, submits that the suit is for partition of the property of Ghanshyam



Das Sharma and, accordingly, the applicant-petitioner is a necessary party to be impleaded as a defendant-respondent.

5. Learned counsel for the defendants-respondents, after arguing for some time, agrees to the fact that whether a divorce had taken place between the deceased Ghanshyam Das Sharma and the applicant-petitioner is required to be proved by evidence and that, as of today, no such proof has been produced. He, therefore, submits that even if the applicant-petitioner is added as a party, and as it is an admitted fact that a marriage was solemnized between Ghanshyam Das Sharma and Radha Sharma @ Anjubala, he has no objection to her being added as a defendant. However, he seeks liberty to lead evidence during the course of the trial to prove the fact that the applicant-petitioner had been divorced from Ghanshyam Das Sharma by an appropriate decree.

6. Heard.

7. This Court finds that there is no necessity to issue notice to the plaintiffs-respondents, as the plaintiffs-respondents have not objected to the application filed under Order I Rule 10 CPC.

8. In view of the facts stated above, and as also admitted by learned counsel for the defendants-respondents, this Court deems it appropriate to allow the writ petition. Accordingly, the order dated 17.08.2026 is hereby quashed and set aside, and the application filed by the applicant-petitioner under Order I Rule 10 CPC is allowed. An amended cause title shall be filed before the learned Trial Court. Since the suit has been pending since 2018, the learned Trial Court is expected to decide the suit as



expeditiously as possible, without granting any unnecessary adjournments, preferably within a period of one and a half year.

9. It is further made clear that the defendants-respondents shall be at liberty to lead evidence to the effect that the applicant-petitioner had been divorced from Ghanshyam Das Sharma. If any such evidence is led by the parties, the learned Trial Court shall consider the same on its own merits, without being influenced by any observation made by this Court.

10. In view of the same, the present civil writ petition is **disposed of**.

11. All pending applications also stand disposed of.

(BIPIN GUPTA),J

58/Harish Goyal