



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

S.B. Civil Second Appeal No. 99/2021

1. Laxmi Bai W/o Surjan Singh, Aged About 63 Years,
Dullapur Kerri, Tehsil And District Sriganganagar
2. Balwant Singh S/o Surjan Singh, Aged About 38 Years,
Dullapur Kerri, Tehsil And District Sriganganagar
3. Kalwant Singh S/o Surjan Singh, Aged About 30 Years,
Dullapur Kerri, Tehsil And District Sriganganagar

-----Appellants

Versus

1. Ram Kumar S/o Sriram, Village Jodkiyan, Tehsil
Padampur, District Sriganganagar
2. Bhoop Ram S/o Sriram, Village Jodkiyan, Tehsil
Padampur, District Sriganganagar
3. Gopal S/o Sriram, Village Jodkiyan, Tehsil Padampur,
District Sriganganagar
4. Sultan Ram S/o Sriram, Village Jodkiyan, Tehsil
Padampur, District Sriganganagar
5. Bhagwanti D/o Sriram, Village Jodkiyan, Tehsil Padampur,
District Sriganganagar
6. Mohini Devi D/o Sriram, Village Jodkiyan, Tehsil
Padampur, District Sriganganagar
7. Jangir Singh S/o Hajoer Singh, Village Dulapur Kerri,
Tehsil And District Sriganganagar
8. Fauja Singh S/o Hajoer Singh, Village Dulapur Kerri,
Tehsil And District Sriganganagar
9. State Of Rajasthan-State, The Collector, Sriganganagar
10. Sub Registrar, Suratgarh, District Sriganganagar

-----Respondents

For Appellant(s) : Mr. Himmat Jagga
For Respondent(s) :

HON'BLE MR. JUSTICE BIRENDRA KUMAR

Order

21/02/2025



1. A suit for specific performance of contract brought by the plaintiffs-respondents was decreed by judgment and decree dated 24.07.2019 passed in Civil Original Suit No.17/2013. The decree was challenged in regular Civil Appeal No.13/2019, which was also dismissed by the learned Additional District Judge, Suratgarh by judgment and decree dated 06.03.2021.

2. Following questions have been stated as substantial questions of law to be decided in this second appeal:-

"(a) Whether the respondents plaintiffs had proved their readiness and willingness to perform their part of the contract?

(b) Whether the so called agreement to sell dated 21.06.1984 executed by late Shri Hajoor Singh in favour of the plaintiffs has been brought about by practice of fraud? If so, its effect?

(c) Whether the learned lower appellate court has adopted a wrong approach towards the case while deciding the question of limitation?

(d) Whether the suit of the respondents plaintiffs for specific performance of sale agreement dated 21.06.1984 was barred by limitation?

(e) Any other substantial question of law which is found just and proper to be framed, may kindly be ordered to be framed."

3. Evidently, none of the questions are substantial questions of law, rather, are mixed questions of law and fact, which cannot be gone into in exercise of second appellate court's power.

4. Learned counsel for the appellants submits that the suit was hopelessly barred by limitation and this fact has not been considered by both the courts below, therefore, the impugned judgment suffers from error of record.

5. No doubt in the agreement, the date for performance of contract was fixed as 21.06.1984. However, the time was extended till 20.06.1986 for the reason that the vendor was to



produce *Jamabandi* in his name in respect of the property under agreement and he had not produced the same. The aforesaid extension was recorded on 29.06.1985. The trial court has held on consideration of evidence that even on expiry of the aforesaid extended time, the mutation order was not produced, hence, evidently, time was not the essence of contract and the plaintiffs were competent to bring the suit on the date of knowledge of refusal to perform the contract and from that day the suit was within time under Article 54 of the Limitation Act.

6. Evidently, this Civil Second Appeal contains no substantial questions of law, hence, it stands dismissed.

(BIRENDRA KUMAR),J

7-nitin/-