



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**



S.B. Civil First Appeal No. 19/1980

CNR: RJHC020011681980 | URN: CFA / 23U / 1980

1. Raja Ishwari Singh (deceased)

1/1 Rani Kismat Kumari aged 60 years, w/o, Raja Ishwari Singh, R/o. Raja Udai Singh Ki Haveli, Jaipur City, Jaipur

1/2 Rani Shakuntla Kumari, W/o Late Raja Ishwari Singh, R/o. Raja Udai Singhji ki Haveli, Jaipur City, Jaipur

(Since Deceased)

1/3 Shri Sobhag Singh aged 38 years S/o. Late Raja Ishwari Singh, R/o. Raja Udai Singhji ki Haveli, Jaipur City, Jaipur (Since Deceased)

1/3/1.Amar kanwar aged- 50 years, w/o Shobhag singh, r/o Raja udai Singh ki Haveli, Jaipur city, Jaipur

1/3/2 Rituraj aged- 28 years, D/o. Shobhag singh r/o Raja Udai Singh ki Haveli, Jaipur city, Jaipur

1/3/3 Yashwardhan singh aged 24 years, s/o Shobhag singh r/o Raja Udai Singh ki Haveli Jaipur city, Jaipur

1/4 Shri Ganpat Singh aged 29 years S/o. Late Raja Ishwari Singh, R/o. Raja Udai Singhji ki Haveli, Jaipur City, Jaipur

1/5 Shri Achal Singh aged 37 years, S/o. Late Raja Ishwari Singh, R/o. Raja Udai Singhji ki Haveli, Jaipur City, Jaipur

1/6 Smt. Ganga Kumari aged 34 years, d/o Late Raja Ishwari Singh, S/o. Shri Vijay Singh, R/o. F-89 Gumaniyawala, Opposite Excise Office, Panchwati Udaipur

1/7 Smt. Laxmi Raj Kumari aged 28 years, d/o Late Raja Shri Ishwari Singh, W/o. Sajjan Singh, R/o Ramchandra Godha Ka Makan, Plot No.45, Gangwal Park, Jaipur

1/8 Renjana Kumari aged 32 years, d/o Late Raja Ishwari Singh, R/o. Raja Udai Singhji ki Haveli, Jaipur City, Jaipur.

...Defendant-Appellants

Versus

1.Raja Hari Singh Son of Late Raja Bishan Singh (Since Deceased)

1/1-Pushpa Kumari W/o. Raja Hari Singh r/o Raja Udai Singh ki





Haveli, Jaipur City, Jaipur

1/2-Suraj Kanwar, D/o Raja Hari Singh W/o. Shaitan Singh, R/o. chamber no- 515, dist court compound, Gaziabad, UP

1/3. Raghuvendra Singh S/o. Raja Hari Singh, R/o. Raja Udai Singh Ki Haveli, Jaipur city, Jaipur

...Plaintiff-Respondent

2 Maji Sahiba Pritam Kunwarji widow of Late Raja Bishan Singh (Deceased).

2/1 Phool Kanwar W/o. Late Rao Raja Ranvir Singh

2/2 Raghuvendra Singh S/o. Hari Singh Both Resident of 98, Vijaypura House, Raja Udai Singh Ji ki Haveli, Tripolia Bazar, Jaipur

----Defendant-Respondent

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|-------------------|---|------------------------------------------------------------|
| For Appellant(s)  | : | Mr. R.K. Daga with<br>Mr. Rahul Singh Chauhan              |
| For Respondent(s) | : | Mr. M.M. Ranjan, Senior Advocate<br>with Mr. Rohan Agarwal |

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**HON'BLE MR. JUSTICE ASHOK KUMAR JAIN**

**Order**

**13/10/2026**

1. Instant first appeal is preferred to challenge judgment and decree dated 23.12.1978 passed by learned Additional District Judge No.1, Jaipur City in civil suit No.115/1974 (19/1961) titled as Raja Hari Singh Vs. Raja Ishwari Singh filed for partition of movable and immovable properties.
2. During pendency of this appeal, a final decree on the basis of rights determined by the trial court on 23.12.1978, has been passed by learned Additional District Judge No.1, Jaipur City in misc. application No.32/2024 on 13.08.2026.
3. Learned counsel appearing on behalf of appellant No.1/5 has candidly admitted the appellants have not filed any objection



about proposal of final decree or division as suggested before the trial court at the time of passing final decree, pursuance to preliminary decree dated 23.12.1978.

4. Learned Senior Advocate appearing on behalf of respondents submits that a final decree dated 13.08.2026 has been passed with the consent of the parties and all the parties have consented to pass a final decree on 13.08.2026 on the basis of determination of their rights. He also submitted that even the contesting appellant No. 1/5 has consented to the division of the property, pursuant to judgment dated 23.12.1978.
5. Having considered the submissions and also subsequent judgment dated 13.08.2026 in a proceeding relating to preparation of final decree, we are of the opinion that it is a subsequent event during pendency of current first appeal therefore taking on record judgment and decree dated 13.08.2026, it is appropriate to consider disposal of the first appeal at this stage.
6. Considered submission of learned counsel for appellants and learned Senior Advocate appearing on behalf of respondents. Also considered the material placed on record.
7. In case of **Shipping Corporation of India Vs. Machado Brothers and Ors., reported in (2004) 11 SCC 168**, Hon'ble Supreme Court has considered an issue in ongoing civil proceedings and observed that by the subsequent event in the original proceedings become *ex debito justitiae*, then it will be the duty of the Court to take such action as is necessary in the interest of justice, which includes disposing



of the litigation. It has always been open to the parties to consider and make an application under Section 151 of CPC to bring to the notice of the Court the facts and circumstances which have made the pending litigation as without any purpose. On filing of such application, the Court will inquire into the alleged facts and circumstances to find out whether the litigation requires to be continued or disposed.

8. The instant appeal is oldest first appeal of this Court at Bench, Jaipur, wherein the civil dispute has been instituted in the year 1961 before the trial court and a preliminary decree was passed on 23.12.1978. The first appeal has been filed on 02.07.1979.
9. A final decree was prepared on 13.08.2026 in consonance with the preliminary decree, but after notice to all the shareholders. During course of argument, learned counsel for the appellant has failed to point out any issue which requires consideration by this Court, as without challenge to the proposed division pursuant to preliminary decree, a final decree has been passed and the property has been divided.
10. The counsel for appellants has candidly admitted that no such objections were raised by them before the trial court and now he has failed to point out any ground which requires consideration by this Court so as to adjudicate the share awarded by the trial court by way of preliminary decree. The issue before the trial court was only with regard to partition of movable and immovable properties and the trial court has decreed the suit and passed an order of



division between original plaintiff-Raja Hari Singh, defendant No. 1 Raja Ishwari Singh and defendant No.2 Maji Sahiba Pritam Kunwarji. The properties as enlisted in civil suit has been divided equally among plaintiff and defendant Nos. 1 and 2 and, further a Commissioner was appointed and final decree has been passed, which has been placed on record along with consent of the parties.

11. Currently the appeal is contested to the extent to challenge the share, but no one has objected in passing of the final decree, which resulted into final division of the properties, as mentioned in civil suit. As per the admissions, the division has been taken place with concurrence of the parties, and no one has challenged the final decree, therefore, we have no option except to invoke the ratio laid down in case of **Shipping Corporation of India Vs. Machado Brothers (supra)**, for disposal of current first appeal.
12. We realize that this is a futile exercise to enter into a controversy in detail after subsequent event as narrated hereinabove. The counsel for appellants have failed to point out any illegality or perversity which requires adjudication by this Court in changed circumstances, therefore, the first appeal is liable to be disposed of in wake of final decree dated 13.08.2026.
13. In view of discussion made herein above, application Nos. 1/2026 and 2/2026, filed under Order 41 Rule 27 of CPC and under Section 151 of CPC, are hereby allowed and the documents submitted along with applications are taken on record. The settlement for final decree is taken on record on



the basis of which a final decree has been drawn between the parties.

14. The instant first appeal *sans* merit, hence judgment and decree dated 23.12.1978 is hereby affirmed in view of final decree dated 13.08.2026 in misc. application No. 32/2024.
15. Thus, the first appeal stands disposed with pending application(s), if any.
16. No order as to cost.

(ASHOK KUMAR JAIN),J

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