



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

S.B. Civil Writ Petition No. 9890/2024

Shri Brijendra Malewar S/o Shri Devendra Prakash Malewar,  
Aged About 64 Years, 59, Van Vihar, Vaishali Nagar, District  
Ajmer, Rajasthan Now Residing At Janta Colony, District Pali,  
Rajasthan.

----Petitioner

Versus

1. Shri Ravindra Prakash S/o Motilal Malewar, Aged About 87  
Years, Plot No.96, Jai Jawan Colony First, Tonk Road,  
District Jaipur Rajasthan Through Power Of Attorney  
Holder Anshul Malewar S/o Kamendra Malewar, Age 26  
Years, R/o 59, Van Vihar, Vaishali Nagar, District Ajmer,  
Rajasthan.
2. Icici Bank, Branch Mahila Ashram Campus, Bhupalganj  
District Bhilwara Rajasthan Through Branch Manager
3. State Bank Of Bikaner And Jaipur, Branch Code 1094  
Bhilwara Through Branch Manager
4. Urban Improvement Trust Bhilwara, Through Secretary,  
Urban Improvement Trust District Bhilwara, Rajasthan.
5. Har Khas V Aam,

----Respondents

For Petitioner(s) : Mr. Tejmal

For Respondent(s) : -

**JUSTICE DINESH MEHTA**

**Order**

**01/07/2024**

1. By way of present writ petition, the petitioner has challenged  
the order dated 29.04.2024, whereby the application filed under  
order 1 of Rule X of CPC seeking impleadment of Udaipur Mineral  
Development, Syndicate Private Ltd. has been rejected.



2. Learned counsel for the petitioner assailing the order dated 29.04.2024 submitted that said Udaipur Mineral Development, Syndicate Private Ltd. (hereinafter referred to as 'the company') is a tenant of the property in relation whereof the letter of administration has been sought and therefore such company is necessary party.

3. Learned counsel for the petitioner submitted that the trial Court has erred in rejecting the petitioner's application for impleading said company as a party.

4. In support of his contention, learned counsel has relied upon judgments of the Rajasthan High Court, Jaipur Bench in the cases of **Rajendra Prasad Garg vs. Ashok Kumar Pansari & Ors.** (S.B. Civil Writ Petition No.14874/2009) decided on 10.05.2011 and **Suninderjeet Singh & Ors. vs State of Rajasthan & Ors.** (S.B. Civil Revision Petition No.240/1992), decided on 20.10.1992.

5. Heard learned counsel for the petitioner and perused the record.

6. Indisputably, the trial Court is in seisin of an application filed under section 278 of Indian Succession Act, 1925 which essentially deal with issuance of letter of administration in relation to a property, in case, the owner dies intestate.

7. According to this Court, in the proceedings under section 278 of Indian Succession Act, 1925 the necessary parties are the legal heirs of the deceased. In some cases, the UIT or Municipal Corporation or the bank with whom the property stands mortgaged may be impleaded as a party, as they may have some semblance of title or legal rights to take possession/ownership of such property.



8. So far as the company is concerned, it stands on entirely different footing. Irrespective of the fate of the proceedings under section 278 of Indian Succession Act, a tenant continues to be a tenant; the tenant cannot oppose the grant or refusal to issue letter of administration in favour of any of the contesting parties.

9. The judgment cited by the petitioner are absolutely alien to the controversy involved in the present case and are clearly distinguishable in light of the facts as noted above.

10. This Court does not find any error or infirmity in the order dated 29.04.2024 passed by the trial Court.

11. The writ petition, therefore, fails.

12. Stay application also stands dismissed accordingly.

**(DINESH MEHTA),J**

57-raksha/-