

**A suit seeking specific performance of an agreement to sell shops that were already being used for business cannot be tried by a regular civil court and must be placed before a Commercial Court**

The **Rajasthan High Court** in the case of **Mohsin Samdani vs. Sajjad Hussain Damami [S.B. Civil Misc. Appeal No. 1555/2025]** dated **January 29, 2026**, has held that a suit seeking specific performance of an agreement to sell shops that were already being used for business cannot be tried by a regular civil court and must be placed before a Commercial Court. The Court observed that once a dispute falls within the Commercial Courts Act, the civil court lacks jurisdiction to try the suit.

The Court observed that when facts establish that the suit property is being used for trade and business purposes at the time of the dispute, the jurisdiction of regular Civil Court is strictly ousted. Moreover, when a commercial dispute is filed in a civil court, the suit must be returned in exercise of the powers under Order 7 Rule 10 CPC.

The Court found that the proposed buyers themselves had admitted in the plaint that they were using the shops for their trade for more than a decade, including when the agreement was signed. A perusal of the record shows that appellants have admitted in the plaint that they have been using the suit premises for the purposes of their trade and commerce for the last more than 10 years. Thus, the Court concluded that the dispute concerning the specific performance of the agreement relating to sale of the suit premises is a commercial dispute and must be adjudicated by competent Commercial Court.