



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



S.B. Civil Writ Petition No.17067/2026

CNR: RJHC020825922026 | URN: CW / 35678U / 2026

Gopali Devi D/o Late Girdhari, W/o Ramkishan, Aged About 84
Years, R/o Nangal Purohitan, Tehsil Amer, District Jaipur.

-----Petitioner

Versus

1. Gyarsi Lal, Son Of Late Kana Ram, R/o Village Rajawas, Tehsil Amer, District Jaipur.
2. Gopal, Son Of Late Kana Ram, R/o Village Rajawas, Tehsil Amer, District Jaipur.
3. Phoolchand, Son Of Late Kana Ram, R/o Village Rajawas, Tehsil Amer, District Jaipur.
4. Prabhat S/o Kana Ram, Resident Of Rajawas, Tehsil Amer, District Jaipur.
5. Ramesh S/o Kana Ram, Resident Of Rajawas, Tehsil Amer, District Jaipur.
6. Sadhya Urf Sadhuran S/o Sedu Ram, R/o Rajawas, Tehsil Amer, District Jaipur.
7. Ramnath S/o Govind Ram, Resident Of Nangal Purohitan, Tehsil Amer, District Jaipur.
8. Manoj S/o Babulal, Resident Of Nangal Purohitan, Tehsil Amer, District Jaipur.
9. Sunil S/o Babu Lal, Resident Of Nangal Purohitan, Tehsil Amer, District Jaipur.
10. Ganesh S/o Satyanarayan, Resident Of Rajawas, Tehsil Amer, District Jaipur.
11. Lalchand S/o Satyanarayan, Resident Of Rajawas, Tehsil Amer, District Jaipur.
12. Smt. Manju D/o Satyanarayan, Resident Of Rajawas, Tehsil Amer, District Jaipur.
13. Smt. Nabbu D/o Satyanarayan, Resident Of Rajawas, Tehsil Amer, District Jaipur.
14. Chanda S/o Gangaram, Resident Of Rajawas, Tehsil Amer, District Jaipur.
15. Chothya S/o Gangaram, Resident Of Rajawas, Tehsil Amer, District Jaipur.





16. Kunj Bihari S/o Late Smt. Anop Devi, W/o Madan Lal Agarwal, R/o 75, Jhalaniyan Ka Rasta, Kishan Pole Bazar, Jaipur.
17. State Of Rajasthan, Through Tehsildar Amer, District Jaipur.
18. Sub Registrar Amer, Tehsil Amer, District Jaipur.
19. Jaipur Development Authority, Jaipur Through Secretary, Jawahar Lal Nehru Marg, Jaipur.
20. Suji Devi D/o Girdhari W/o Ramkishan, R/o Nangal Purohitan, Tehsil Amer, District Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Amit Jindal Mr. Dinesh Jat Ms. Dipti Jindal Ms. Reena Goyal Mr. Chandraveer Singh
For Respondent(s)	:	Mr. Rishi Kumar Sharma Mr. Giriraj Prasad Gujar Mr. Uday Shanker Acharya Mr. Uma Shankar Acharya Mr. Gaurav Soni

JUSTICE ANOOP KUMAR DHAND

Order

02/09/2026

1. The instant writ petition has been preferred against the impugned judgment dated 29.07.2026, passed by the Division Bench of the Board of Revenue, Ajmer (for short "the Board"), by which the Appeal No.5481/2018 submitted by the private respondent nos. 1 to 3 against the judgment and decree dated 23.04.2018 passed by the Revenue Appellate Authority, Jaipur (for short "RAA") in Appeal No.174/2018, has been allowed; and the judgment and decree dated 27.12.2017 passed by the Assistant Collector & Executive Magistrate, Amer (for short "Assistant



Collector”) in Revenue Suit No.43/2008 has been quashed and set aside and the suit filed by the plaintiff-petitioner has been rejected.

2. Learned counsel for the petitioner submits that for declaration of *khatedari* rights, the petitioner instituted a revenue suit before the Court of the Assistant Collector, which was decreed vide judgment and decree dated 27.12.2017, against which two different appeals were submitted – one by private respondent no.16-Kunj Bihari and another by private respondent nos. 1 to 3, namely – Gyarsi Lal, Gopal and Phoolchand, bearing Appeal Nos.73/2018 and 174/2018 respectively, before the RAA. The said appeals were heard and decided together by the RAA. Learned counsel submits that the appeal submitted by private respondent no.16-Kunj Bihari was allowed and the revenue suit filed by the petitioner was dismissed to the extent of the private respondent no.16-Kunj Bihari. Whereas, the appeal submitted by the private respondent nos. 1 to 3 was also partially allowed and the impugned judgment dated 27.12.2017 was set aside, and the matter was remanded to the Assistant Collector for passing fresh orders.

3. Learned counsel for the petitioner further submits that the aforesaid consolidated order was passed by the RAA vide judgment and decree dated 23.04.2018, against which the private respondent nos.1 to 3 preferred second appeal under Section 224 of the Rajasthan Tenancy Act, 1955 (for short “the Act of 1955”) before the Board. The Board not only entertained the second appeal but also quashed and set-aside the judgment passed by the RAA and the Assistant Collector and the suit filed by the





petitioner-plaintiff has been rejected. Learned counsel submits that against an order of remand, second appeal under Section 224 of the Act of 1955 is not maintainable, but the appeal under Section 222 of the Act of 1955 is maintainable. He further submits that if the Board was of the view that the order of remand passed by the RAA was bad in law, then the said order could have been quashed and set-aside with a direction to the RAA to decide the appeal afresh on its merits. Instead of issuing the aforesaid directions to the RAA for deciding the appeal afresh, the Board has gone one step ahead by which the suit submitted by the plaintiff-petitioner has also been rejected. Hence, the petitioner has been deprived of the right to file statutory first appeal against the rejection of his plaint.

4. In support of his submissions, learned counsel for the petitioner has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **P.E. Prasannakumari & Others Vs. T.K. Ambujakshi (Dead) through LRs**, while deciding **Civil Appeal No.4357/2024** vide order dated 18.03.2024. He submits that the aforesaid view taken by the Hon'ble Apex Court has been followed by the Co-ordinate Bench of this Court in the case of **Chunki Devi Vs. Singari & Ors.** while deciding **S.B. Civil Writ Petition No.3562/2026** vide order dated 18.03.2026, against which D.B. Civil Special Appeal (Writ) No.308/2026 was also submitted. The said special appeal was rejected by the Division Bench of this court vide order dated 09.04.2026 and the order dated 18.03.2026 passed by the Co-ordinate Bench was upheld. Hence, under these circumstances, interference of this Court is warranted.



5. *Per contra*, learned counsel appearing on behalf of the respondents opposed the arguments raised by learned counsel for the petitioner and submitted that the suit filed by the plaintiff-petitioner itself was not maintainable and when the respondents felt aggrieved by the judgment and decree dated 27.12.2017 passed by the Assistant Collector, two different appeals were submitted by two different appellants before the Court of RAA - one by private respondent no.16-Kunj Bihari and another by private respondent nos.1 to 3. Learned counsel submits that while allowing the appeal submitted by the private respondent no.16-Kunj Bihari, a detailed finding of fact was recorded, but while deciding the appeal submitted by the private respondent nos.1 to 3, a contrary finding has been recorded, which was not tenable and sustainable in the eyes of law that is why the second appeal under Section 224 of the Act of 1955 was submitted by the respondents before the Board. Learned counsel submits that the Board has rightly appreciated all these material aspects of the matter and has rightly quashed and set-aside the judgment passed by the RAA and the Assistant Collector, and the Board has also rightly rejected the suit submitted by the plaintiff by recording a cogent and reasoned order. Hence, under these circumstances, interference of this Court is not warranted and the instant writ petition is liable to be rejected.

6. In support of his submissions, learned counsel for the respondents has placed reliance upon the judgment passed by the Division Bench of this Court in the case of **Nandlal and Others Vs. Devi Shanker and Others** while deciding **D.B. Civil Special Appeal (Writ) No.343/2002** vide order dated 26.08.2020.



7. Heard and considered the submissions made at the Bar and perused the material available on the record.

8. Perusal of the record indicates that a suit for correction of entries was submitted by the petitioner against the respondents before the Court of Assistant Collector and the same was decreed vide judgment and decree dated 27.12.2017.

9. It appears that aggrieved by the aforesaid judgment, two different appeals were submitted by private respondent no.16-Kunj Bihari and private respondent nos.1 to 3-Gyarsi Lal, Gopal and Phoolchand. The aforesaid appeals were jointly decided vide judgment and decree dated 23.04.2018, whereby the appeal submitted by private respondent no.16-Kunj Bihari was allowed in *toto*, while the appeal submitted by private respondent nos.1 to 3 was partly allowed and the matter was remanded to the Assistant Collector for deciding the suit afresh.

10. Aggrieved by the aforesaid judgment, the second appeal was preferred by the respondents before the Board. The Board has not only set aside the impugned judgments passed by the Assistant Collector and RAA, but also rejected the revenue suit submitted by the petitioner-plaintiff.

11. The Hon'ble Apex Court in the case of **P.E. Prasannakumari** (supra), has dealt with an identical situation in para Nos.5 and 7, which reads as under:-

"5. It was an appeal preferred by the appellants before the High Court. If the High Court was of the view that there was no merit in the appeal, the High Court could have at highest confirmed the order of remand passed by the First Appellate Court. However, as stated above, the High Court has proceeded to set aside the order of remand and restored the decree of



the Trial Court. The original plaintiffs were not aggrieved by the order of remand.

7. The only logical order which the High Court could have passed was of setting aside the order of remand and directing the First Appellate Court to decide the appeal on merits. The reason is that the First Appellate Court had passed the order of remand by setting aside the decree in its entirety and while doing so, no adjudication was made on the factual and legal issues. The appellants cannot be deprived of the remedy of first appeal."



12. The Hon'ble Apex Court was clear on the issue that against an order of remand, if any appeal is preferred and if the higher Court is satisfied that the order of remand is not just and proper, then the matter could be remanded to the first appellate court for deciding the appeal on its merits, but the suit submitted by the plaintiff cannot be rejected. In case such practice is allowed, then the appellant would be deprived from availing the remedy of first appeal.

13. In the instant case also, the aforesaid analogy is applicable.

14. In the considered opinion of this court, if the Board was of the view that the order passed by the RAA was not legally sustainable in the eyes of law, then the matter could have been remanded to the RAA with clear and specific directions to decide the appeal on its merits by quashing the order of remand, but in the instant case, the Board has gone one step ahead and dismissed the suit filed by the plaintiff as well. Hence, under these circumstances, the petitioner has been deprived of the opportunity to avail the remedy of first appeal.

15. Considering overall facts and circumstances of the case, the impugned judgment dated 29.07.2026 passed by the Board is found to be not sustainable in the eyes of law and is liable to be,



and is hereby, quashed and set aside and the impugned judgment dated 23.04.2018 passed by the RAA also stands quashed and set aside. The matter is remanded to the RAA for deciding the appeal submitted by the private respondent nos.1 to 3 on its merit expeditiously, as early as possible.



16. The parties are directed to appear before the RAA on 22.09.2026. The RAA is directed to hear and decide the appeal expeditiously as early as possible, preferably within a period of two months thereafter, without entertaining any unnecessary and unwarranted request made by either side.

17. With the aforesaid observations, the instant writ petition stands disposed of. Stay application as well as all pending applications, if any, also stand disposed of.

18. Before parting with this order, it is made clear that this Court has not adjudicated the matter on its merits and has not decided the rights of the parties, however, the RAA would be at liberty to decide the appeal on its merits strictly in accordance with law.

(ANOOP KUMAR DHAND),J

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