

तारीख हुक्म	हुक्म या कार्यवाही मय इनिशियल्स जज <u>Appeal Decree No.4268/2026/TA/Ganganagar</u> Ramjit Vs. Lakhvinder	नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए
29.04.2026	<p style="text-align: center;"><u>Division Bench</u></p> <p style="text-align: center;">Shri Kesar Lal Meena, Member Shri Sanuj Kulshrestha, Member</p> <p>Present:-</p> <p>Shri Amritpal Singh Vanar: counsel for the appellant. Shri Rajendra Singh Barar: counsel for the respondent.</p> <p>1. The present Appeal decree has been filed under section 224 of the Rajasthan Tenancy Act, 1955 against the decision of learned Revenue Appellate Authority, Ganganagar dated 15.04.2024 in appeal no. 123/2025 'Lakhvindra Singh Vs. Ramjit Kaur'.</p> <p>2. Brief facts of the case are that the appellant filed plaint before the Sub-Divisional Officer, Padampur under section 88 of Rajasthan Tenancy Act, 1955 with the intention to ineffective the mutation No. 438 which was attested on 16.10.2013 on the basis of Gift deed dated 02.09.2013 in favour of Respondent No. 1 Lakhvindra Singh son of Gurmel Singh/Gurdayal Singh, later by order of Assistant Collector and Sub-Divisional officer Sriganganagar dated 23.09.2024 the plaintiff Ramjit Kaur wife of Surjeet Singh was declared as a Khatedar upto her share of canal land out of Murba No. 38 Kita No. 21 to 24 area 1.012 Hect. and Murba No. 56 Kita No. 1 to 17 area 4.301 Hect. total area 5.313 Hect. of village of Chak 46 GG of Tehsil Padampur, aggrieved by the judgment the respondent No. 1 filed an appeal before learned Revenue Appellate Authority, Sriganganagar and the appellate court set aside the judgement dated 23.09.2024 aggrieved by the judgment of first appellate court the appellant filed this appeal before the Board.</p> <p>3. Heard the advocates of both sides on</p>	

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	<p>Admission and stay application at admission stage.</p> <p>4. In this case both the effective parties are present through their counsels and have yielded to decide the matter finally at the stage of admission itself. Therefore, while exercising the power under section 224 read with section 226 and section 221 of the Rajasthan Tenancy Act, 1955 this court while appreciating impugned order, finds that the judgment of the trial court dated 23.09.2024 was passed on a declaration, suit based on inheritance. In the judgment trial court proceeded with the proposition of law that a property acquired through inheritance cannot be conveyed through gifts, except to the extent to his own share. This decision was rendered ex-parte, after recording due publication of notices in newspaper. The appellate court proceeded to decide the appeal whereby setting aside the judgment and decree of appellate court dated 23.09.2024, on the premise that, the trial court failed to take any evidence on record and in doing so it considered the gift-deed as void, and not tenable in law. To this extent the discussion of learned appellate court appears to be reasonable but appellate court while recording the operating portion, failed to appreciate the fact that the judgment of the trial court was not on merits but was delivered ex-parte. Therefore, instead of deciding the appeals on merits and wholly setting aside the judgement and decree of trial court, that too without framing any issues points of consideration, the appellate court ought to have remanded the case back for decision afresh after giving both the parties opportunities of hearing, as per law. To this extent this appeal is partially allowed and appellate court order is modified accordingly. As a result thereof the</p>	

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	<p>trial court is directed to decide the matter afresh after giving proper opportunity of hearing to both the parties. Both the parties present before this court are same as before the trial court therefore, both the parties are directed to appear before the trial court and contest their cases as per their own claim, in accordance with law. Accordingly, the second appeal is decided at admission stage itself, as per the contentions of both the counsels, at Bar. Be it ordered accordingly.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>Consequent upon the discussion hereinabove, this court, after considering the factual matrix of this case and upon careful analysis of relevant law this court arrives at the conclusion that this appeal is partially allowed at admission stage and both the judgments of the courts below <i>i.e.</i> Revenue Appellate Authority, Sriganganagar dated 15.04.2026 in appeal No. 123 and Additional Collector & Sub-Divisional Officer, Padampur dated 23.09.2024 in case no 199/2024 are set aside and the matter is remanded back to Additional Collector and Sub-Divisional Officer, Padampur to decision afresh. Appeal is disposed of accordingly. Advocates informed accordingly. Decree be issued as per law.</p> <p style="text-align: center;">Pronounced in open court.</p> <p style="text-align: center;"> (Sanuj Kulshrestha) (Member) (Kesar Lal Meena) (Member) </p>	