

तारीख हुक्म	हुक्म या कार्यवाही मय इनिशियल्स जज <u>REVISION NO.2354/2002/TA/BHARATPUR</u> Babulal Vs. Gopal Sharan	नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए
09.04.2026	<p style="text-align: center;"><u>Single Bench</u> Shri Sanuj Kulshrestha, Member</p> <p><u>Present :</u> Shri Ajeet Lodha : counsel for the applicants. Shri Vaibhav Krishna Pareek : counsel for non-applicant.</p> <p>1. Instant revision petition has been filed under section 230 of the Rajasthan Tenancy Act, 1955 (hereinafter to be referred "the Act") against the order dated 17.4.2002 passed by Assistant Collector, Weir (Bharatpur).</p> <p>2. Heard learned counsel for both the parties on the application under Section 151 of the Code of Civil Procedure dated 05.02.2025 submitted by the applicants.</p> <p>3. The applicants/ plaintiffs have submitted in their application under Section 151 of the Code of Civil Procedure that they filed a suit for declaration and permanent injunction under sections 88, 89 & 189 of the Rajasthan Tenancy Act against defendant/ non-applicant Gopal Sharan before Assistant Collector, Weir. That plaintiffs were khatedar tenants of the land bearing khasra No. 662 measuring 4 bigha 19 biswa situated in village Lakhanpur tehsil Weir district Bharatpur and were in possession since Samvat 2012. The defendant/ non-applicant Gopal Sharan never remained in possession of the disputed land and entry of his khatedari wrongly existed in revenue record. They requested that plaintiffs/ applicants may be declared as khatedar tenants of above mentioned land and entries may be ordered to be made in revenue record accordingly. The trial court Assistant Collector, Weir vide his order dated 02.02.1990 confirmed the ad-interim order dated 27.02.1988 passed by him earlier and restrained the defendant to interfere in possession of plaintiffs of the disputed land during pendency of the suit.</p>	

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	<p>4. Against the trial court's order dated 02.02.1990, defendant filed an appeal before Revenue Appellate Authority, Bharatpur who vide judgment dated 07.10.1995 accepted the appeal and set aside trial court's order remanding the matter to decide the application for temporary injunction afresh after analyzing the fact of disputed land being of khatedari of Murti Mandir. Although on the day when land was given on patta to plaintiffs, it was not on khatedari of any temple.</p> <p>5. Against the appellate court's order dated 07.10.1995, plaintiffs filed revision petition before the Board of Revenue who vide its judgment dated 27.11.2000 accepted the revision directing the appellate court to take decision on merits. But the Board erroneously on the basis of conjectures and surmises illegally held that the temple may be made necessary party in the suit as well as in the application for temporary injunction as the disputed land appears to be temple land. The Board also illegally observed for appointment of receiver.</p> <p>6. The plaintiffs filed review petition against the judgment dated 27.11.2000 passed by the Board, who again dismissed the review vide order dated 26.4.2001.</p> <p>7. Feeling aggrieved by the order dated 07.10.1995 passed by Revenue Appellate Authority, Bharatpur, judgments dated 27.11.2000 and 26.4.2001 respectively passed by the Board of Revenue, the plaintiffs filed writ petition No. 5545/2001 before the Hon'ble High Court stating that disputed land is in possession and ownership of plaintiffs and Murti Mandir has no connection with the land. The High Court vide order dated 29.11.2001 admitted the writ petition and stayed the operation and effect of the orders of appellate court dated</p>	

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	<p>07.10.1995 and Board of Revenue dated 27.11.2000. The High Court on 07.8.2002 confirmed its stay order dated 29.11.2001.</p> <p>8. Thereafter, the defendant filed an application under Order 1 Rule 10 CPC to implead the temple as party before the court of Assistant Collector, Weir. The plaintiffs also filed an application before the learned trial court to stay the proceedings of the suit as the matter is sub-judice before Hon'ble High Court. The trial court passed an order on 17.4.2002 dismissed the application filed by the plaintiffs. Aggrieved against this order dated 17.4.2002, present revision petition was filed in the Board. Hence, the plaintiffs/ revisioners prayed in their revision that in the context of orders dated 29.11.2001 and 07.8.2002 passed by the Hon'ble High Court in pending Writ Petition No. 5545/2001, the trial proceedings should be stayed till the final adjudication of writ petition to avoid undue litigation between the parties, while allowing this revision.</p> <p>9. Per contra, learned advocate for the non-applicant/ non-revisioners submitted in his written statement that the present revision filed by applicant/ plaintiff does not come under the provisions of section 230 of the Rajasthan Tenancy Act, 1955 and the learned trial court has not made illegality in its order. The suit is pending before the trial court and the plaintiffs have the intention to linger on the case. The plaintiffs have wrongly submitted the facts in the application under section 151 CPC.</p> <p>10. The advocate for non-applicant further argued that the applicants' saying that the matter is already pending in the Hon'ble High Court, hence hearing in trial court to produce evidence may be stayed, is entirely against the legal provisions because the plaintiff had filed a suit for declaration and</p>	

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	<p>permanent injunction under sections 88, 89 & 189 before the Assistant Collector, Weir and three issues have already been framed. It is amply clear that the matter pending before the High Court, is only regarding order given on application of temporary injunction and High Court stayed only the implementation of that order itself. Therefore, it was requested that the present revision petition as well as application under Section 151 of the Code of Civil Procedure dated 05.02.2025 submitted by the applicants may be dismissed and the trial court may be ordered to proceed with the trial and decide the pending suit at the earliest.</p> <p>11. After hearing both the parties through their counsels, this court deems it fit to elucidate upon the power of revision vested in this court by virtue of section 230 of the Rajasthan Tenancy Act. For the purpose of clarity, section 230 is reproduced as under :-</p> <p style="text-align: center;">"230. Power of the Board to call for cases — The Board may call for the record of any case decided by any subordinate revenue court in which no appeal lies either to the Board or to a civil court under section 239 and if such court appears — (a) to have exercised jurisdiction not vested in it by law; or (b) to have failed to exercise jurisdiction so vested; or (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity. Board may pass such orders in the case as thinks fit."</p> <p>12. In this regard, the Hon'ble Rajasthan High Court, in the judgment rendered in <i>NTPC vs. Board of Revenue</i> [2025 RJ (JD) 12400]; [2025 (1) RLW (Raj.) 889], has laid down the following principle :-</p>	

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	<p>"In view of the discussions made above, I am of the considered view that the revision petition is not maintainable under Section 230 and 221 of the Rajasthan Tenancy Act against ad-interim orders passed by the subordinate revenue courts and the appellate courts and the revision petition is maintainable only against the decision of the suits as well as the interim applications decided by the revenue courts and appellate courts."</p> <p>13. In the light of above mentioned legal provisions and authoritative judicial pronouncements, an insightful look from the record of the case reveals that an order was passed by the learned trial court in a temporary injunction application in the instant suit against which various appeals/revisions upto Revenue Board followed. The Revenue Board in its order dated 27.11.2000 directed the Revenue Appellate Authority to take decision on merits keeping in view the judgment of the Board of Revenue. Further in the same order, the Board of Revenue proceeded to direct trial court that in the original suit, Temple be included as a necessary party as it prima-facie appears from revenue record that the land in dispute is a temple land. This order of Revenue Board dated 27.11.2000 was stayed by Hon'ble Rajasthan High Court in SB Civil Writ Petition No. 5545/2001 dated 07.8.2002. As a result of this stay order, an application was filed in the trial court for staying the trial proceedings of the court since the order of Revenue Board was stayed by the Hon'ble High Court. This application under 151 CPC came to be decided by the learned trial court in the impugned order dated 17.4.2002 whereby after discussing the arguments of both the parties and primary appreciation of logics given by them, the trial court concluded that the stay order of the Hon'ble High Court do not disturb the trial process as it was</p>	

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	<p>passed in the proceedings related to the matter originating from the temporary injunction application.</p> <p>14. Without adverting to the merits and impact of the order of the Hon'ble High Court, the apparent fact which is <i>ex-facie</i> revealed on the record, that the revision order of the Revenue Board dated 27.11.2000 and 26.4.2001 consists of a single direction for the suit as well i.e. 'impleadment of the Temple as party'. It is quite clear that the order in an application of temporary injunction which although filed separately, is considered as a supplemental proceedings to the main suit by virtue of section 94 of the CPC, which implies that the eventual fate of the application of temporary injunction would merge in the end result of the suit. In a way of saying, the proceedings under an application of temporary injunction is an offshoot of the proceeding in original suit. Therefore, it is but natural that the proceedings originating from the application of temporary injunction without any specific order as to stay of trial procedure/ proceedings in the original suit, would not adversely effect the trial proceedings. In this regard, the judgment of Hon'ble Allahabad High Court in Chirag Aashiana Pvt. Ltd. Vs. Smt. Santosh[2025 AHC 207262] deals with the nature of the proceedigns pertaining to temporary injunction. The Hon'ble Court observes that temporary injunctions are passed with specific objects like preservation of lis, preventing unrebuttable harm etc. and its operation is either for specified time or till further orders and they effectually do not conclude the rights and liabilities of the parties finally emphasising upon the specificity of Interim order. In case to case basis Hon'ble Supreme Court in Sanjiv Kumar Singh Vs, State of Bihar[2023 Live Law(SC)63] has held that mere filing of an appeal does not operates as an automatic stay unless there is a specific interim order to that effect.</p>	

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	<p>15. Adverting to the facts of this case, it is clear from the ordersheet of the trial court that at the time when the record was called, the matter was at the stage of defendant's evidence as shown from the ordersheet dated 03.5.2002. Prior to that, the record also reveals that several transfer applications as well as the instant application for stay of the proceedings were filed by the parties. But the facts remain that even after rejecting the application for staying the trial via impugned order dated 17.4.2002, the file was called in the revision by the Board and the trial proceedings came to a halt.</p> <p>16. In the light of above discussion, it is nothing but a travesty of justice that a suit which was filed almost about 38 years ago was still pending not because of an specific order or direction of the competent court, but because of procedural casualness. Without going into the details any further, this court deems it fit that the impugned order of the trial court below dated 17.4.2002 do not suffer from any jurisdictional error or any material irregularity/ illegality as such. The writ petition at the High Court is still pending at Hearing stage, and this fact is not controverted by any of the parties as such. Therefore, in the light of above discussion, the instant revision petition being devoid of merits, deserves to be disallowed. It is further directed that the trial court shall proceed with the trial from the stage where it was left vide ordersheet dated 03.5.2002. In doing so, the trial court will not be influenced by the order of Revenue Board dated 27.11.2000/ 26.4.2001 as both have been stayed by the Hon'ble High Court. However, the parties are free to proceed with the trial for assertion of the individual rights & claims as they deem fit in accordance with law. The trial court is directed to conclude the trial within a period of three months from the receipt of this order. Be it ordered accordingly.</p>	

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	<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 and authoritative judicial pronouncements, deems it proper to dismiss the revision being devoid of merits. Hence, the revision petition is dismissed. The impugned order dated 17.04.2002 is upheld and resultantly the trial court Assistant Collector, Weir is directed to proceed with the trial from the stage where it was left vide ordersheet dated 03.5.2002 and conclude the trial within a period of three months from the receipt of this order. Both the parties are free to proceed with the trial for assertion of the individual rights & claims as they deem fit in accordance with law. Revision petition is disposed of accordingly. No orders as to cost.</p> <p style="text-align: center;">Pronounced in open court.</p> <p style="text-align: center;">(SANUJ KULSHRESTHA) Member</p>	