

<p>तारीख हुक्म</p>	<p>हुक्म या कार्यवाही मय इनिशियल्स जज</p> <p style="text-align: center;"><b><u>Appeal Decree/TA/3188/2003/Udaipur</u></b>  <b>U.I.T. Vs LRs of Panna Lal &amp; ors.</b>  <b><u>Appeal Decree/TA/3188/2003/Udaipur</u></b>  <b>U.I.T. Vs LRs of Panna Lal &amp; ors.</b></p>	<p>नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए</p>
<p>4.04.2019</p>	<p style="text-align: center;"><b>D.B.</b></p> <p style="text-align: center;"><b>Shri Mukesh Kumar Sharma, Chairman</b>  <b>Shri Rajinder Kumar, Member</b></p> <p><b>Present:-</b></p> <p>Shri Hangami Lal, counsel for the appellant.  Shri Virendra Singh Rathore and shri Uttam Prakash Aameta, counsels for the Respondent.</p> <p style="text-align: center;"><b>JUDGMENT</b></p> <p>1. Both these second appeals have been preferred against the judgments and decrees dated 23.04.2003 passed by the learned first appellate court in appeal no. 235/01 and 238/01.</p> <p>2. Facts of the case in nutshell are that the plaintiff Panna Lal (since deceased) filed a suit for declaration, correction of revenue record and permanent injunction in the trial court of the Sub Divisional Officer, Girva (Distt. Udaipur) in respect of the lands bearing khasra no. 2168, 2171 to 2173, 2175, 2176, 2180, 2187 situated in Village Savina. The suit was contested by the defendants/appellants by filing written statement. The learned trial court vide judgment dated 27.07.2001 partly decreed the suit and the plaintiff/appellant was declared khatedar of the lands bearing khasra no. 2172,</p>	

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	<p>2173, 2175, 2176. Feeling aggrieved both the parties preferred separate appeals in the court of learned Revenue Appellate Authority, Udaipur. The learned first appellate court vide the impugned judgment and decree dated 23.04.2003 accepted the appeal filed by the plaintiffs/respondents and decreed their suit in its entirety and the appeal of the defendant/appellant was dismissed. Hence, these two appeals have been filed by the defendant/appellant.</p> <p>3. We have heard the learned counsels.</p> <p>4. On behalf of the defendant/appellant, it was argued that the learned trial court has passed its judgment in a very cursory manner. No issue wise findings have been given by the learned trial court. The issue no. 8 pertains to the jurisdiction of the learned trial court to decide the suit and this issue has also been left undecided. The learned first appellate court also ignored the factual and legal aspects involved in the matter and illegally accepted the appeal of the plaintiffs/respondents and dismissed the appeal of the defendant/appellant, therefore, a prayer has been made to accept these appeals and to remand the matter to the learned trial</p>	

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	<p>court to decide the suit afresh as per law.</p> <p>5. Learned counsels for the plaintiffs/respondents opposed the above submissions. He has stated that the judgments and decrees of the courts below are perfectly justified and no interference is required.</p> <p>6. We have given our thoughtful consideration to the above submissions and perused the record carefully.</p> <p>7. A careful perusal of the judgment of the trial court would reveal that no issue wise findings have been recorded by it. The Judgment has been passed in a very cursory manner. Issue no. 8 relates to the jurisdiction of the trial court to decide the suit and no finding has been given by the learned trial court on this issue as well. Therefore, a material illegality was committed by the learned trial court in passing the impugned judgment and decree. The learned first appellate court also instead of remanding the matter to the learned trial court illegally decreed the suit of the plaintiffs/respondents and dismissed the appeal of the defendant/appellant.</p>	

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	<p>8. Therefore, the appeals are accepted and the judgments and decrees of the courts below dated 27.07.2001 and 23.04.2003 are set aside. The matter is remanded to the learned trial court to pass issue wise judgment in accordance with law after hearing both the parties. The parties shall appear in the trial court on 11.06.2019.</p> <p>Pronounced. File be consigned.</p> <p><b>(Rajinder Kumar) (Mukesh Kumar Sharma)</b> Member Chairman</p>	