

तारीख हुक्म	हुक्म या कार्यवाही मय इनिशियल्स जज Revision No. 5589/2003/TA/Tonk Bhairu Vs. Santosh	नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए
02.02.2021	<p style="text-align: center;"><u>Single Bench</u></p> <p style="text-align: center;">Mahendra Kumar Parakh, Member</p> <p><u>Present:</u></p> <p>Shri J.K. Pareek : counsel for the petitioner. None present on behalf of the non-petitioners.</p> <p style="text-align: center;">- - -</p> <p>This revision has been presented under section 230 of the Rajasthan Tenancy Act, 1955 against the order dated 30.10.2003 of learned Settlement Officer-cum-Revenue Appellate Authority, Tonk in appeal no. 55/2001.</p> <p>Brief facts of the case are that plaintiff/ non-petitioner no.1 filed a suit under sections 88 & 188 Rajasthan Tenancy Act, 1955 against the petitioner and non-petitioners no. 2 and 3 in the court of Assistant Collector, Uniyara for disputed land bearing khasra no. 429 having an area of 1.31 hectare in Village Roopwas Tehsil Uniyara which was rejected by A.C.M. vide his order dated 29.12.2000; against which an appeal was preferred in the court of Settlement Officer-cum-Revenue Appellate Authority, Tonk. During the pendency of appeal, non-petitioner moved an application under section 209 Rajasthan Tenancy Act which was accepted by R.A.A., Tonk on 30.10.2003. Aggrieved by the order of R.A.A. dated 30.10.2003, this revision petition has been presented.</p> <p>The counsel of the non-petitioner remained absent despite of being summoned. Ex-parte arguments heard.</p> <p>The learned advocate for the petitioner repeated the facts mentioned in his revision and argued that non-petitioner has presented unregistered and unstamped sale document in the appellate court under section 209 of the Rajasthan Tenancy Act while the same document should have been presented in the trial</p>	

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	<p>court before framing of issues. Apart from that, applicant is a person belonging to Scheduled Caste and any such sale document cannot be a basis for claim even in the main suit. Therefore, the application should have been rejected by the appellate court. Instead without a speaking order the same was accepted by R.A.A., Tonk on 30.10.2003.</p> <p>Considered the arguments of the learned counsel for the petitioner and perused the records carefully.</p> <p>I am of the considered opinion that the order dated 30.10.2003 is not a considered and speaking order. Any new document which is beyond pleading in the suit presented in the trial court which forms the basis of presenting a new plaint deserves to be rejected. Moreover, the appellate court cannot frame issue unless there are reasonable grounds which explicitly reflect that the plaintiff could not present the same document in the trial court for certain reasons beyond doubt. As such, this revision deserves to be accepted. Hence accepted. The order dated 30.10.2003 passed by the learned Settlement Officer-cum-Revenue Appellate Authority, Tonk is quashed. The original files of the appellate court may be returned and the case is remanded to Revenue Appellate Authority, Tonk with the instruction to decide the appeal afresh within a period of three months. Both the parties to appeal are directed to be present in the appellate court on 01.3.2021.</p> <p>Pronounced.</p> <p style="text-align: center;">(Mahendra Kumar Parakh) Member</p>	