

तारीख हुकम	हुकम या कार्यवाही मय इनिशियल्स जज Revision/TA/2004/1415/Bharatpur	नम्बर व तारीख अहकाम जो इस हुकम की तामील में जारी हुए
1-5-2019	<p style="text-align: center;"><u>S.B.</u> Shri Rajinder Kumar, Member</p> <p><u>Present:-</u></p> <ol style="list-style-type: none"> 1. Shri Ajeet Lodha, Counsel for the revisionist. 2. Shri J.K.Pareek, Counsel for the respondents. <p style="text-align: center;"><u>JUDGMENT</u></p> <ol style="list-style-type: none"> 1. This revision petition has been preferred against the order and decree dated 7.01.2004 passed by the learned trial court of the Assistant Collector, Kama whereby the suit filed by the revisionist/plaintiff was rejected under Order 7 Rule 11 C.P.C. 2. I have heard the learned counsels 3. On behalf of the revisionist/plaintiff it was argued that the learned trial court rejected the suit mainly on the ground that the previous suit of the plaintiff/ revisionist had been decided through compromise and thus the second suit on the same cause of action was barred by law. The approach of the learned trial court was not lawful because the previous suit was not decided on merits. The court below in passing the impugned order did not take into account the provisions of Order 32 Rule 7 C.P.C. and Order 23 Rule 3 C.P.C. The suit was rejected on technicalities and the court below also did not take into consideration that the right, title and interests of Deity over the suit land were involved in the instant matter. Therefore, a prayer was made to accept the revision petition and to set aside the impugned order and decree. 4. Learned counsel for the defendants/respondents submitted that order and decree rejecting the suit under Order 7 Rule 11 C.P.C. is appealable and thus, this revision petition is not maintainable. 5. In rebuttal the learned counsel for the plaintiff/ revisionist submitted that no decree was drawn up by the trial court, therefore, revision petition filed. 6. I have given my thoughtful consideration to the above submissions and perused the record carefully. 	

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	<p>7. An order of rejection of plaint amounts to a decree within the meaning of Section 2(2) of the Code of Civil Procedure, 1908. Therefore, plaintiff/appellant ought to have filed appeal against the impugned order and decree in the court of Revenue Appellate Authority.</p> <p>8. The fact that decree sheet was not drawn by the learned trial court in compliance of the impugned order would not change the nature of the order. The act of drawing up decree is a ministerial act and in the case of failure of the trial court to draw decree as per order/judgment, any of the parties could request the concerned court to do the needful.</p> <p>9. Resultantly, the revision petition is dismissed. Pronounced.</p> <p style="text-align: center;">(Rajinder Kumar) Member</p>	

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1-5-2019	<p style="text-align: center;"><u>S.B.</u> Shri Rajinder Kumar, Member</p> <p style="text-align: center;">Judgment separately dictated and pronounced. As per judgment the revision petition is dismissed File be consigned.</p> <p style="text-align: center;">(Rajinder Kumar) Member</p>	