

तारीख हुक्म	हुक्म या कार्यवाही मय इनिशियल्स जज Appeal Decree No. 2286/2005/TA/Jaipur Ramphool Vs. Ganga	नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए
3.12.2019	<p style="text-align: center;"><u>Division Bench</u> Shikhar Agrawal, Member Ramnivas Jat, Member</p> <p><u>Present:</u></p> <p>Shri Rakesh Arora : counsel for the appellant. Shri K.K. Purohit : counsel for respondent no.4. Shri Shyam Babu Pareek : counsel for respondents.</p> <p style="text-align: center;">- - -</p> <p>This is second appeal under section 224 of the Rajasthan Tenancy Act, 1955 challenging the order of Revenue Appellate Authority, Jaipur dated 19.1.2005 by which he has set aside the order of trial court dated 14.7.2003.</p> <p>The learned advocate for the appellant stated that Suna S/o Bhagwana had possession of land before Rajasthan Tenancy Act came in force and therefore Suna filed a suit for declaration and permanent injunction for half the land. By stating that the settlement has committed mistake by recording the land in the name of Kisna and Kajod, he argued that trial court did not grant them relief by stating that khatedari rights cannot be given on the basis of possession only. He emphasized that R.A.A. on 19.1.2005 accepted the appeal filed against the order of the trial court primarily relying on khasra girdawari of Samvat 2010-13. He argued that trial court had accepted us the cultivator in the period 2010-13 whereas R.A.A. has interpreted the same document differently. He further emphasized that as per the decision of the Larger Bench of the Board of Revenue, khatedari rights cannot be given on the basis of adverse possession.</p> <p>Learned advocate for the respondents stated that girdawari for Samvat 2010-19 and 2031-33 were submitted in the trial court which need to be carefully seen. He emphasized that their claim was not on the basis of adverse possession but</p>	

तारीख हुक्म	हुक्म या कार्यवाही मय इनिशियल्स जज Appeal Decree No. 2286/2005/TA/Jaipur Ramphool Vs. Ganga	नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए
	<p>on the basis of section 15 and settlement had no right to change the name without any basis. He further emphasized that khasra girdawari needs to be relied upon where Jamabandi does not exist and therefore the R.A.A.'s order is just & proper.</p> <p>Learned advocate for appellant countering these arguments, stated that the claim of the opposite side was not on the basis of section 15 or 19 in the original suit and mere recording of cultivation does not make tenant or sub-tenant. He also emphasized that R.A.A. has issued orders against a dead person without taking legal successors on record and therefore R.A.A.'s order cannot be sustained.</p> <p>We have heard learned advocates on both sides and carefully perused the case record.</p> <p>After proper appraisal of all relevant facts, we are of the opinion that R.A.A.'s order dated 19.1.2005 needs to be set aside. The case is remanded to R.A.A., Jaipur to take legal successors on record and decide it afresh giving his findings on all relevant issues without fail. The appeal succeeds accordingly.</p> <p>Pronounced.</p> <p>(Ramnivas Jat) Member</p> <p>(Shikhar Agrawal) Member</p>	