

Date of Order	Revision/TA/2871/2005/Banswara Bhala Vs. Lemji	
29.10.2018	<p style="text-align: center;"><u>S.B.</u></p> <p style="text-align: center;">Shri Rajinder Kumar, Member</p> <p style="text-align: center;">*****</p> <p>Present :</p> <p>Shri Surendra Sharma : counsel for the revisionists. Shri P.S. Dashora : counsel for respondents.</p> <p style="text-align: center;">- - -</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <ol style="list-style-type: none">1. This revision petition seeks to challenge the judgment dated 02.5.2005 of the learned Sub Divisional Officer, Kushalgarh District Banswara passed in Review Application No. 50/2003, whereby the review petition filed by the revisionists was rejected.2. I have heard learned counsels for the parties.3. On behalf of the revisionists, it was urged that a suit for division of 70 bigha joint land was filed by the respondents in the trial court. All the five co-sharers were entitled to $\frac{1}{5}$ - $\frac{1}{5}$ share in the said land. The learned trial court passed the Preliminary Decree as per their entitlement, however, the final decree was passed without issuing any notice to the revisionists. In this way, the division of holdings could not take place by Metes and Bounds. The Local Commissioner appointed by the trial court proposed to give more land to the respondents in comparison to the revisionists. In this way, the final decree was passed in disobedience and breach of the Preliminary Decree as well as the provisions of Rules 18 to 21 framed by the Revenue Board in this regard. As soon as the revisionists came to know of the illegality committed by the trial court, they preferred review application stating that there is an error apparent on the face of the record. However, the learned trial court dismissed the said application in a cryptic manner. Therefore, a prayer was made to accept this revision petition and to direct the trial court to appoint Local Commissioner for inspection	

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	<p>of the site in the presence of the parties and to submit partition scheme afresh so that final decree may be prepared accordingly.</p> <p>4. Learned counsel for the respondents has vehemently opposed the above submissions. He has argued that the impugned order dated 02.5.2005 is justified. There was no scope for the trial court to accept the review application.</p> <p>5. I have given my thoughtful consideration to the above submissions and perused the record carefully.</p> <p>6. The record of the trial court reveals that in compliance of the Preliminary Decree, partition scheme was obtained by appointing Local Commissioner. The thumb impressions and signatures of the parties including the revisionists were also obtained by the Local Commissioner on the report prepared by him. It shows that the said report was prepared in the presence of the revisionists. The final judgment was also passed by the trial court in the presence of the revisionists. Thereafter, they filed the review application after a lapse of almost three years. As the application was hopelessly time barred and as there was no error apparent on the face of record, therefore, the learned trial court committed no illegality in dismissing the review application.</p> <p>7. Resultantly, the revision petition in hand is dismissed.</p> <p>Pronounced.</p> <p style="text-align: center;">(Rajinder Kumar) Member</p>	