

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 7971/2015

1. Jogendra Singh S/o Shri Balveer Singh, aged about 75 years, R/o Chak 25 GB, Tehsil Sri Vijay Nagar, District Sri Ganganagar.
2. Mahendra Singh S/o Shri Balveer Singh, aged about 77 years,
 - 2/1. Gurdep Kaur W/o Mahendra Singh, aged about 79 years,
 - 2/2. Simarjeet Gaur D/o Mahendra Singh, aged about 58 years,
 - 2/3. Kulveer Singh D/o Mahendra Singh, aged about 53 years,
 - 2/4. Beant Singh S/o Mahendra Singh, aged about 53 years,
 - 2/5. Jasvinder Singh S/o Mahendra Singh, aged about 46 years,All are resident of Chak 25 GB, Tehsil Sri Vijaynagar, District Sriganganagar.
3. Sarvajeet Singh S/o Shri Balveer Singh, aged about 65 years, both petitioner Nos.2 and 3 are residents of Chak 25GB, Tehsil Sri Vijay Nagar, District Sri Ganganagar.
4. Legal Representatives of late Shri Harbansh Singh S/o Shri Balveer Singh:-
 - 4/1. Surjeet Kaur Wd/o late Shri Harbansh Singh,
 - 4/2. Bakshi Singh S/o late Shri Harbansh Singh,
 - 4/3. Malkit Singh S/o late Shri Harbansh Singh,
 - 4/4. Jagdish Singh S/o late Shri Harbansh Singh,All residents of Chak 25GB, Tehsil Sri Vijay Nagar, District Sri Ganganagar.
5. Smt. Paramjeet Kaur D/o late Shri Harbansh Singh, W/o shri Shardul Singh, by caste Jat Sikh, resident of 44GB, Tehsil Sri Vijay Nagar, District Sri Ganganagar.
6. Kashmeer Singh alias Kashmir Kaur D/o late Shri Harbansh Singh, resident of Jagtewala, Tehsil Sri Karanpur, District Sri Ganganagar.
7. Kuldeep Kaur D/o late Shri Harbansh Singh, by caste Jat Sikh, resident of Chak 25GB, Tehsil Sri Vijay Nagar, District Sri Ganganagar.

-----Petitioners

Versus

1. Board Of Revenue, Rajasthan, Ajmer.
2. Revenue Appellate Authority, Sri Ganganagar.
3. Sub Divisional Officer (Revenue), Raisinghnagar.
4. Tehsildar (Revenue), Raisinghnagar.
5. Ajeet Singh S/o Shri Balveer Singh, R/o Chak 25 GB, Tehsil Sri Vijay Nagar, District Sri Ganganagar.

-----Respondent

For Petitioner(s)	:	Mr. C.S. Kotwani. Mr. Tushar Thanvi.
For Respondent(s)	:	Mr. S.R. Paliwal, G.C. Mr. G.L. Purohit.

HON'BLE MR. JUSTICE SANJEET PUROHIT**Order****05/05/2026**

1. Instant writ petition has been preferred under Articles 226 and 227 of the Constitution of India challenging judgment dated 07.07.2015 passed by learned Board of Revenue, Ajmer, whereby the appeal preferred against judgment dated 23.08.2011 passed by learned Revenue Appellate Authority, Sri Ganganagar ("RAA") as well as the judgment and final partition decree dated 22.10.2008 passed by learned Assistant Collector and Sub-Divisional Officer, Raisinghnagar ("SDO"), has been dismissed .

2. Explaining the background facts of the case, learned counsel for the petitioner stated that petitioners and private respondent no. 5 (Ajeet Singh) are real brothers, being the sons and legal representatives of late Shri Balveer Singh. The dispute between the parties pertains to several parcels of agricultural land situated in Chak 25 GB, Tehsil Sri Vijay Nagar, comprising Murabba Nos. 23, 25, 30, 29, 48, 49, and 55 ("*land in question*").

2.1 Plaintiff - respondent no. 5 instituted a revenue suit for partition under Sections 53, 88, and 49 of the Rajasthan Tenancy Act, 1955 before learned SDO. It was averred in the plaint that because the respective shares and parcels of land belonging to the

brothers were scattered across different pockets, proper agricultural cultivation, maintenance, and irrigation operations could not be carried out efficiently, and to resolve these difficulties, it was asserted, the parties had mutually settled their rights and effected a partition, on the strength of which, a legal decree of partition was sought along with corresponding mutation entries in the revenue records.

2.2 Upon being served, defendants – present petitioners entered appearance through their counsel and filed a joint written statement, admitting the factum of partition and consenting to passing of a decree in terms of the mutually settlement as averred in the plaint. Following the submission, plaintiff-respondent No. 5 filed his evidence by way of an affidavit.

2.3 Subsequently, on 08.05.2007, petitioner no. 1 - Jogendra Singh moved an application before learned SDO asserting that no actual partition had ever taken place between the brothers and that no voluntary consent had been given by defendants as claimed. Learned SDO, however, without adjudicating upon said application, passed a final judgment and decree of partition dated 22.10.2008 based upon the consent recorded in the written statement already filed.

2.4 Aggrieved thereby, petitioner No. 1 (Jogendra Singh) and deceased petitioner No. 4 – Harbansh Singh preferred two separate appeals (Appeal No. 71/2008 and Appeal No. 32/2009, respectively) before Learned RAA; however, vide common judgment dated 23.08.2011, learned RAA dismissed both appeals. Said judgment dated 23.08.2011 was challenged before learned

Board of Revenue, which, in view of the concurrent findings of the learned Lower Courts below, dismissed the appeal vide judgment dated 07.07.2015.

2.5 Challenging aforesaid judgments dated 22.10.2008, 23.08.2011, and 07.07.2015, instant writ petition has been filed.

3. Learned counsel appearing for petitioner no. 1 submitted that learned Revenue Courts below have committed grave error of law as well as of facts while passing the impugned judgments.

3.1 Learned counsel submitted that the entire proceedings before learned SDO was a result of fraud and collusion orchestrated by respondent no. 5. It is contended that the signatures of petitioners were obtained by respondent no. 5 under misrepresentation. It is urged that, in these circumstances, the consent decree obtained by fraud cannot be sustained in the eyes of law.

3.2 It is further argued that the amendment made to the plaint on 23.08.2006 significantly altered the partition details to the detriment of petitioners. It is also contended that pursuant to said amendment, no fresh opportunity was given to petitioners to file a written statement to the amended plaint, which constitutes a patent procedural illegality and vitiates the entire proceedings.

3.3 Learned counsel submitted that learned SDO committed a grave jurisdictional error and instead of conducting inquiry into allegations of fraud, learned SDO proceeded to pass the final partition decree on 22.10.2008, and the same has been completely overlooked by both learned RAA and learned Board of Revenue.

3.4 Learned counsel further argued that in a suit for partition filed under the Rajasthan Tenancy Act, it is mandatory to pass a preliminary decree to determine shares before a final decree can be drawn. By directly passing a final partition decree, learned SDO acted with material irregularity and patent illegality.

4. Per contra, learned counsel for the respondent no. 5 submitted that the concurrent findings arrived at by the three revenue courts below do not suffer from any jurisdictional infirmity or patent illegality so as to warrant interference by this Court.

4.1 It was submitted that the written statement was filed before the Court of learned SDO on behalf of all the defendants voluntarily, after fully understanding the nature of the partition suit and the details of allocations stated therein. The subsequent allegations of fraud, misrepresentation, and collusion are nothing but an afterthought to drag out a settled family division.

4.2 It was vehemently denied that respondent No. 5 exerted any undue influence or manipulated the trial court proceedings behind the back of his brothers and further submitted that there was no justification available with defendant-petitioners to challenge the independence of the counsel, Mr. Devendra Singh Romana, who was legally engaged by them via a duly executed *Vakalatnama*.

4.3 It was further argued that despite levelling serious allegations of fraud and fabrication of signatures, the petitioner has completely failed to produce any primary material on record to demonstrate that any independent civil or criminal proceedings, or forensic evaluation of handwriting, had ever been initiated by him in respect of the same.

4.4 Learned counsel also emphasized that when petitioner No. 1 filed the application dated 08.05.2007 to resile from his recorded consent, learned Trial Court put the matter for arguments; however, on the dates fixed for adjudication, petitioner chose not to appear, thereby abandoning his objections.

5. In response to said submissions, learned counsel for the petitioner no. 1 maintains that petitioners are low-literate persons and reiterate that once the application seeking permission to contest the suit on merit was filed, learned SDO was under an obligation to adjudicate the same on merits, and, therefore, learned SDO committed a grave error of law in straightaway proceeding to pass the final decree of partition.

6. Learned Additional Government Counsel, appearing on behalf of State – respondents (Nos. 1 to 4), submitted that Court of learned SDO acted completely within the statutory bounds and in accordance with the law governing the field and the final decree of partition is completely justified. It is stated that learned RAA as well as learned Board of Revenue also acted correctly in refusing to reopen a decree passed on consent of parties. Hence, it is submitted that the present writ petition is not maintainable and deserves to be dismissed.

7. Heard learned counsel for the parties and perused the material available on record.

8. The primary issue that comes up for the consideration of this court is the propriety and the validity of the partition decree passed on the basis of recorded consent of all the parties concerned, without adjudication upon the application filed to

challenge the factum of such consent and to seek permission to contest the suit on merits.

9. It is an established position of fact, as emerging from the record, that petitioner-defendants entered their appearance before learned SDO through a counsel and filed a joint written statement, wherein they recorded their unqualified consent to passing of a partition decree in accordance with the terms and allocations of shares as stipulated in the plaint. However, subsequently, bald allegations of fraud, misrepresentation, and manipulation have been levelled against respondent no. 5, who is practicing advocate, however, it is also a settled canon of law that a plea of fraud or coercion cannot be entertained on the basis of mere bald, generic and vague assertions.

9.1 As per Order VI Rule 4 CPC, a party alleging fraud must plead precise, specific, and definite particulars of alleged misrepresentation. In the case at hand, the joint written statement was filed through the engaged counsel on the strength of a duly executed *Vakalatnama*. Beyond the bald assertions of fraud, petitioner has not raised specific pleadings nor placed any cogent material on record to demonstrate how, in what manner, and at what point in time the alleged fraud was performed against them.

9.2 Even assuming, *arguendo*, petitioner's signatures were obtained under active misrepresentation, however, there is complete absence of any material on record to show that petitioner ever initiated independent civil or criminal proceedings to establish factum of forgery, which clearly raises doubts about

their bona fides and tilts the balance of equities against them. Regular judicial acts and records carry a presumption of correctness, which cannot be lightly displaced by an uncorroborated plea of fraud.

10. As regards the non-consideration of the application filed by petitioner no. 1 seeking permission to contest the suit on merits, a perusal of the record reveals that the application was filed after a lapse of two years since the initiation of suit proceedings. It is also borne from the record that after the application was filed, the matter had been listed for arguments on many occasions. Court of learned SDO had even fixed a date for hearing the arguments on said application and notices in respect of the same were also served upon petitioner no. 1; however, on the date so fixed, petitioner failed to appear and address arguments on the application. A litigant cannot be permitted to first not prosecute the matter before the Trial Court, allow the proceedings to culminate, and then turn around to raise a grievance of violation of principles of natural justice before the writ court. By failing to press the application at the opportune time, petitioner effectively waived their objections.

11. Petitioner's contention that learned SDO committed a patent procedural illegality by bypassing the preliminary decree stage is untenable. While the passing of a preliminary decree to declare shares is the standard procedure in a contested partition suit under the Rajasthan Tenancy Act, this rule is not absolute. When the parties present a pre-existing, mutually accepted physical division of the land and the defendants consents to decreeing

partition in accordance with it, the requirement of drawing up a preliminary decree remains an empty formality. In such a scenario, there remains no contentious issue left for adjudication, and the Trial Court acted fully within its competence to directly pass a final decree as per terms settled between, and consented to by the parties.

12. Petitioner's grievance regarding the amendment made to the plaint on 23.08.2006 is equally groundless. It has been argued that allowing this amendment without giving the defendants a fresh opportunity to object violated the principles of natural justice. However, the record reveals that the amendment was purely descriptive and, more importantly, did not reduce, alter, or impact the actual share or layout allocated to petitioner No. 1 in any manner. Therefore, this Court finds that both learned RAA and learned Board of Revenue have correctly observed that amendment of such nature cannot be made a ground to disturb a validly recorded consent decree.

13. It is also pertinent to note that, during the pendency of present writ petition, two of the co-petitioners have filed applications expressing their unequivocal intent to withdraw from the litigation. This conduct establishes that the family partition has been accepted, acted upon, and implemented by the vast majority of the legal heirs of late Shri Balveer Singh. Petitioner No. 1 stands completely isolated in his persistent challenge, which appears to be motivated more by inter-se rancor than any substantive legal injury.

14. It is well-settled position of law that concurrent findings of learned Courts below should not ordinarily be interfered with by this Court while exercising its extraordinary writ jurisdiction, particularly in the absence of any patent illegality, perversity, misreading of evidence, or jurisdictional error being demonstrated by petitioner. In this regard, reliance may appropriately be placed upon the judgment passed by this Court in **S.B. Civil Writ Petition No. 10774** titled **Forest Department, Govt. of Rajasthan v. Kanna & Ors.**, relevant paragraphs of which are reproduced herein below

"23. The finding of fact recorded by the First Appellate Authority and affirmed by the Revisional Authority does not require any interference by this Court as the learned Sr. Counsel for the Forest Department has failed to produce any document to show that the findings recorded by the Courts below are in contravention of the Revenue Records or they are so perverse which requires any interference by this Court. This Court also finds that the scope of interference on the factual aspect recorded by the Courts below is very narrow and unless any glaring fact is brought to the notice of this Court, no interference is warranted. The concurrent findings of fact recorded by the courts below are contrary to the documents placed on record, therefore, they are not required to be interfered with."

14.1 Similarly, in **Ganga Ram & Anr. v. State of Rajasthan, 2012 (1) RRT 325**, this Court has held as follows: -

"In this view of the matter, in considered opinion of this Court, the concurrent findings arrived at by the three Courts below after due appreciation of evidence on record cannot be said to be capricious or perverse and the order impugned passed by the Board does not suffer from any

jurisdictional error so as to warrant interference by this Court in exercised of its extra ordinary jurisdiction.”

14.2 Furthermore, it is also a well-entrenched principle of law that the supervisory jurisdiction under Article 227 of the Constitution of India is not to be exercised as an appellate power to re-appreciate evidence or to substitute the opinion of the High Court for that of the lower revenue courts. Interference is warranted only in cases of manifest injustice, patent illegality, or where the authorities below have crossed the parameters of their jurisdiction. Burdening this judgment with copious quotes from a catena of authoritative precedents such as **Waryam Singh v. Amarnath, Shalini Shyamsunder Shetty v. Rajendra Shankar Patil, Garment Craft v. Prakash Chand Goel** would be futile, as the settled jurisprudential position is beyond cavil.

14.3 In present case, learned SDO, learned Revenue Appellate Authority, and learned Board of Revenue, after thorough appreciation of the material placed on the record, have concurrently arrived at a finding of fact that the consent recorded was valid, the subsequent application seeking to resile thereon lacked diligence, and the allegation of fraud was entirely unsubstantiated. Petitioner no. 1 has completely failed to demonstrate any jurisdictional error, perversity, or material irregularity in the impugned judgments, and, therefore, this Court finds no ground to interfere with the same.

15. Consequently, instant writ petition, being devoid of merits, is hereby **dismissed**. The judgment and final partition decree dated 22.10.2008 passed by learned SDO, Raisinghnagar, is upheld and

judgement dated 07.07.2015 passed by learned Board of Revenue, Ajmer and judgment dated 23.08.2011 passed by learned Revenue Appellate Authority, Sri Ganganagar, are hereby affirmed.

16. All pending applications, including the stay application and any applications filed by co-petitioners seeking withdrawal from the array of parties, stand disposed of.

(SANJEET PUROHIT),J

187-sumer/-