

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

S.B. Civil Writ Petition No. 7453/2025

1. Shri Vagji S/o Shri Maliya, Aged About 61 Years, R/o Kachlakhali Danpur, Tehsil And District Banswara, Rajasthan.
2. Shri Hira S/o Shri Maliya, Aged About 67 Years, R/o Kachlakhali Danpur, Tehsil And District Banswara, Rajasthan.
3. Lrs of Lt. Shri Jagdish S/o Lt. Shri Maliya, Through -
 - 3.1. Shri Santosh S/o Shri Jagdish, Aged About 27 Years, R/o Kachlakhali Danpur, Tehsil And District Banswara, Rajasthan.
4. Lrs of Lt. Shri Bhadur S/o Lt. Shri Maliya, Through -
 - 4.1. Shri Sukhram S/o Shri Bhadur, Aged About 34 Years, R/o Kachlakhali Danpur, Tehsil And District Banswara, Rajasthan.
 - 4.2. Shri Lagan S/o Shri Bhadru, Aged About 31 Years, R/o Kachlakhali Danpur, Tehsil And District Banswara, Rajasthan.
 - 4.3. Shri Piru W/o Shri Bhadur, Aged About 56 Years, R/o Kachlakhali Danpur, Tehsil And District Banswara, Rajasthan.
5. Shri Roopchand S/o Shri Nagji, Aged About 65 Years, R/o Kachlakhali Danpur, Tehsil And District Banswara, Rajasthan.

-----Petitioners

Versus

1. The State of Rajasthan, Through The Secretary, Department Of Revenue, Jaipur Of Rajasthan.
2. The Land Acquisition Officer (Sub-Divisional Officer), Tehsil And District Banswara, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Laxmikant Vaishnav
Mr. Hemank Vaishnav
Ms. Dolly Jaiswal

For Respondent(s) : --

HON'BLE MR. JUSTICE KULDEEP MATHUR**Order****28/08/2025**

1. The present writ petition under Article 226 of the Constitution of India has been filed by the petitioner against the order dated 08.11.2024 passed by the learned Civil Court, Banswara whereby the reference application preferred by the petitioner under Section 18 of the Land Acquisition Act, 1894 (*hereinafter* referred to as 'the Act of 1894') was rejected.
2. Learned counsel for the petitioner submitted that the order dated 08.11.2024 has been erroneously passed by the learned civil Court, Banswara for the simple reason that the award in case of petitioner has been passed under the Act of 1894 and, therefore, as per Section 18 of the Act of 1894, the reference application has rightly been filed by the petitioner before the learned civil Court, Banswara and it is the appropriate forum where such application is maintainable.
3. Learned counsel further submitted that the learned civil Court has wrongly applied Section 63 of Land Acquisition and Resettlement Act, 2013 (*hereinafter* referred to as 'the Act of 2013') while dealing with the application of the petitioner. He submitted that the provisions of Section 63 of the Act of 2013 are not applicable in the present case as the acquisition proceedings have been undertaken and concluded invoking the provisions of the Act of 1894. He, therefore, prays that the order dated 08.11.2024 may be quashed and set aside and the learned civil Court may be directed to decide the reference application preferred by the petitioner under Section 18 of the Act of 1894.

4. In support of his arguments, learned counsel has placed reliance upon a judgment dated 17.03.2025 passed by this Court in the case of "**Shri Jagdish Chandra Tehli vs. The State of Rajasthan & Ors.**" passed in **S.B. Civil Writ Petition No.15921/2024.**

5. Heard learned counsel for the petitioner and perused the record of the case as well as gone through the judgment passed by this Court in **Shri Jagdish Chandra Teli (supra).**

6. Having considered the facts and circumstances of the case, this Court finds that the land acquisition proceedings were initiated by the respondent No.2 way back in the year 2010 and the final award was also passed in the year 2010. The reference application was also filed in the year 2011 and, therefore, the proceedings were required to be undertaken as per the provisions of the Act of 1894.

7. In the considered opinion of this Court, in the present case the learned civil Court, Banswara has wrongly applied the provisions of the Act of 2013. The reference application filed by the petitioner under Section 18 of the Act of 1894 was required to be decided by the learned civil Court only as the civil Court is the only Court where the jurisdiction lies and therefore, the reference application has rightly been filed by the petitioner before the learned Court below.

8. In the opinion of this Court, the provisions of the Act of 2013 has wrongly been invoked by the learned Court below. The order dated 08.11.2024 is erroneous and not sustainable in the eyes of law.

9. In view of aforesaid, the present writ petition is allowed. The order dated 08.11.2024 passed by the learned civil Court, Banswara is quashed and set aside and the civil Court, Banswara is directed to decide the reference application preferred by the petitioner under Section 18 of the Act of 1894 afresh in accordance with law.

10. Stay application and all other pending applications, if any, also stand disposed of, accordingly.

(KULDEEP MATHUR),J

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