

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

S.B. Civil Writ Petition No. 9107/2026

1. Ali Khan S/o Sabu Khan, Aged About 50 Years,
Mangaliyon Ki Dhani, Chandhan, Tehsil Jaisalmer, District
Jaisalmer (Raj)
2. Namim Khan S/o Sabu Khan, Aged About 50 Years,
Mangaliyon Ki Dhani, Chandhan, Tehsil Jaisalmer, District
Jaisalmer (Raj)

----Petitioners

Versus

1. State Of Rajasthan, Through Its Secretary To The
Government, Department Of Revenue, Secretariat, Jaipur
(Raj.)
2. District Collector, Jaisalmer (Raj.)
3. Sub Divisional Officer, Jaisalmer, Jaisalmer (Raj.)
4. Naib Teshildar, Chandhan, District Jaisalmer (Raj.)
5. Patwari, Chandhan, Dist Jaisalmer (Raj).

----Respondents

For Petitioner(s) : Mr. Ikbal Khan, Adv.

For Respondent(s) : Mr. Sanjay Raj Paliwal, GC

HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

27/04/2026

1. Present writ petition is filed challenging order dated 23.03.2026 (Annexure-6) passed by learned Deputy Tehsildar, Chandhan, District Jaisalmer, whereby, while deciding proceedings under Section 91 of Rajasthan Land Revenue Act ("*the Act*"), petitioners have been declared trespassers and an order for their eviction has been passed.
2. Learned counsel for petitioners submits that the land in question was initially allotted in favour of petitioners' father way

back in the year 1971, and since then, petitioners have been in continuous possession thereof and are residing on said land after raising residential construction thereon.

3. It is further submitted that inspite of such established possession of petitioners over the land in question, proceedings under Section 91 of the Act are being initiated against petitioners almost every year.

4. *Per contra*, Mr. Sanjay Raj Paliwal, learned Government Counsel, upon instruction, has put in appearance on behalf of respondents and submits that the position of law is well settled that an order passed under Section 91 of the Act is appealable, and therefore, a writ petition directly challenging the same before this Court is not maintainable.

5. While placing reliance upon judgment dated 04.03.2026 passed in ***S.B. Civil Writ Petition No. 2581/2026 (Magan Singh vs. State of Rajasthan)*** and judgment dated 17.04.2026 passed in ***S.B. Civil Writ Petition No. 8190/2026 (Lunaram vs. State of Rajasthan)***, learned counsel for respondents submits that an appeal challenging impugned order dated 23.03.2026 has already been filed before learned District Collector, Jaisalmer, along with a stay application.

6. This Court *prima facie* finds that in view of judgments passed in ***Magan Singh*** (supra) and ***Luna Ram*** (supra), present writ petition challenging impugned order dated 23.03.2026 (Annexure-6) is not maintainable when an alternative efficacious statutory remedy in the form of appeal under the Act is available with petitioners.

7. However, looking to the fact that petitioners have placed on record various documents to establish their possession over the land in question, including the order dated 17.07.1971 allotting land in question to petitioners' father in the year 1971 and documents showing possession of petitioners over the land in question in the form of residential house, this Court is of the considered opinion that if interim relief is not granted in favour of petitioner during the pendency of appeal, the very purpose of filing appeal would get frustrated.

8. In view of the availability of alternative efficacious remedy, the present writ petition is dismissed as not maintainable, however, in the peculiar facts and circumstances of this case, this Court deems it appropriate to direct learned District Collector, Jaisalmer to decide the pending appeal as well as the stay application filed along with the same by the petitioners expeditiously, preferably within a period of three months from the date of passing of this order.

9. It is made clear that learned District Collector, Jaisalmer is expected to decide pending appeal independently and pass appropriate orders in respect of the same, strictly in accordance with law, without being influenced by instant order passed by this Court, nor by interim protection granted by this Court in favour of petitioners.

10. Learned counsel for the petitioners is directed to place copy of this order before appellate authority.

11. Till final decision of appeal, no coercive action shall be taken against the petitioner.

12. With these directions, present writ petition **is dismissed.**

13. Stay application and all other pending applications, if any, also stand **disposed of**.

(SANJEET PUROHIT),J

11-shashikant/-