

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

S.B. Civil Writ Petition No. 12659/2019

1. Kalawati D/o Late Brij Lal W/o Shri Raja Ram, Aged About 40 Years, R/o Chak 9- Dwd, Tehsil Rawatsar, District Hanumangarh.
2. Kini Rani D/o Late Shri Brij Lal W/o Shri Jagdish, Aged About 42 Years, R/o Chak 9- Dwd, Tehsil Rawatsar, District Hanumangarh.

----Petitioners

Versus

1. Ishant Minor Son Of Shri Mangi Lal, Through Natural Father Mangi Lal S/o Late Brij Lal, R/o Salemgarh, Tehsil Tibbi, District Hanumangarh (Raj.).
2. Nirani Alias Rani Devi W/o Late Shri Brij Lal, R/o Salemgarh, Tehsil- Tibbi, District- Hanumangarh (Raj.).
3. Saroj D/o Late Shri Brij Lal W/o Anil, R/o Ward No. 21, Sangriya, Tehsil Sangriya, District Hanumangarh (Raj.).
4. Sunita D/o Late Shri Brij Lal W/o Shri Ajay @ Vikram, R/o Maujgarh, Tehsil Abohar, District Fazilka (Punjab).
5. Board Of Revenue, Ajmer.
6. Revenue Appellate Authority, Hanumangarh.
7. Sub Divisional Officer, Tibbi.

----Respondents

For Petitioner(s)	:	Mr. Muktesh Maheshwari with Mr. Aidan Choudhary
For Respondent(s)	:	Mr. Manoj Bhandari, Sr Advocate with Mr. Govind Suthar Mr. Trilok Joshi Mr. Dron Kaushik

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

22/03/2022

The case comes up on an application (01/2021) preferred by the petitioner against the order dated 28.07.2021, whereby the

learned Assistant Collector-Cum-Sub Divisional Officer (Revenue), Tibbi has refused to proceed in the case in view of the interim order passed by this court on 17.09.2019.

Learned counsel for the petitioner submits that after hearing learned counsel for the parties, this court has passed the following order on 17.09.2019:-

"Issue notice. Issue notice of stay application also.

Mr. Dron Kaushik, learned counsel accepts notice on behalf of respondent No.1.

Let notice be issued to respondent No.2 to 4, returnable on 22.10.2019.

Till then, effect and operation of the impugned order dated 18.06.2019, passed by the Board of Revenue in Appeal/Decree/7027/2015 Hanumangarh shall remain stayed".

Vide order dated 17.09.2019, the effect and operation of the Board of Revenue's order dated 18.06.2019 was stayed. The net result of the interim order passed by this court was that in pursuance of the order passed by the Revenue Appellate Authority dated 30.10.2015, the matter was remanded back to the learned Assistant Collector-Cum-Sub Divisional Officer (Revenue), Tibbi for hearing the matter afresh. Thus, the effect of staying the operation of the Board of Revenue's order dated 18.06.2019 is that the proceedings before the learned Assistant Collector-Cum-Sub Divisional Officer (Revenue), Tibbi were required to be undertaken.

The learned counsel for the respondent submits that since the writ petition itself is pending before this court and the order of Board of Revenue has not been quashed and set aside, the proceedings before the learned Assistant Collector-Cum-Sub

Divisional Officer (Revenue), Tibbi cannot be undertaken in the revenue suit pending before it.

Having considered the submissions made at the Bar, I am of the view that this court passed the interim order on 17.09.2019 after hearing learned counsel for the parties staying the effect and operation of the order dated 18.06.2019 passed by the Board of Revenue, therefore, the learned Assistant Collector-Cum-Sub Divisional Officer (Revenue), Tibbi was under an obligation to proceed with the revenue suit as the interim order passed by this court had not stayed the proceedings pending before it. Thus, in view of the order passed by this court on 17/09/2019, there is no impediment for the learned Assistant Collector-Cum-Sub Divisional Officer (Revenue), Tibbi to proceed with the revenue suit proceedings pending before it.

In view of the discussion made above, the application filed by the petitioners is allowed. The order dated 28/07/2021(Annex.A/2) passed by the learned Assistant Collector-Cum-Sub Divisional Officer (Revenue), Tibbi is quashed and set aside. It is made clear that there is no stay by this Court on the proceedings pending before it in Suit No.213/2012.

List this matter on 05.04.2022, as prayed.

Interim order, if any, to continue till then.

(VINIT KUMAR MATHUR),J