

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 13229/2025

Raghvendra Singh Bika S/o Shri Narendra Singh, Aged About 43 Years, Resident Of House No. 35, Gandhi Nagar (Uit), Near Veterinary College, Lalgarh Bikaner (Raj.).

-----Petitioner

Versus

1. Board Of Revenue, State Of Rajasthan, Ajmer Through Its Registrar.
2. District Collector And Deputy Commissioner, Department Of Colonisation, Bikaner (Raj.).
3. Assistant Colonisation Commissioner, Department Of Colonisation, Kolayat, Bikaner (Raj.).

-----Respondents

For Petitioner(s) : Mr. Himmat Jagga
Ms. Tania Chugh

For Respondent(s) :

HON'BLE MR. JUSTICE SANJEET PUROHIT

Order

05/05/2026

1. Present writ petition has been filed with following prayers:

"i. That by an appropriate writ, order or direction, the order dated 23.03.2001 (Annexure-4) passed by the learned Board of Revenue, State of Rajasthan, Ajmer may kindly be quashed and set aside and the order dated 14-12-1988 passed by the learned Assistant Colonisation Commissioner, department of Colonisation, Kolayat, Bikaner may kindly be restored;

ii. Any other appropriate order which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case in favour of the petitioner;

iii. Cost of the writ petition also be awarded in favour of the petitioner."

2. While elucidating factual matrix of present case, learned counsel for petitioner submitted that respondent No. 2 - District Collector and Deputy Commissioner, Department of Colonisation, Bikaner, made a reference under Section 232 read with Section 82 of Rajasthan Land Revenue Act, 1956 ("Act of 1956") against judgment/decreed dated 14.12.1988 to learned Board of Revenue ("BOR") with respect to 25 bighas of land situated in village Charnawala, on the ground that petitioner's uncle namely Mr. Madan Singh Bika, though recorded as a *gair khatedar*, was not in cultivatory possession of the said land.

Learned BOR, on the ground that no specific entry in revenue records existed in favour of petitioner's uncle, accepted reference made by respondent No. 2 vide order dated 23.03.2001 (Annexure-4) and set aside judgment/decreed passed by Assistant Colonisation Commissioner dated 14.12.1988.

2.1 It is further stated that subsequently, petitioner's uncle, executed a registered Will dated 30.07.2015 (Annexure-1), whereby he bequeathed his entire property in favour of petitioner. It was stated that petitioner's uncle, with a view to obviate any future disputes, adopted petitioner on 28.02.2017 by way of an adoption deed (Annexure-2).

Upon the demise of his uncle on 17.04.2019, petitioner became sole owner of the property of his late uncle.

2.2 Present writ petition is filed challenging the order passed by learned BOR dated 23.03.2001 (Annexure-4).

3. Learned counsel for petitioner contended that impugned order passed by learned BOR is erroneous, inasmuch as the fact

that reference was made by respondent No. 2 after an inordinate delay, thus the same ought not to have been entertained by learned BOR.

3.1 It was further submitted that land in question, measuring 25 bighas, continues to remain in petitioner's possession, and that he has been cultivating the same without any obstruction.

3.2 In order to substantiate the aspect of delay in filing present writ petition, learned counsel for petitioner placed reliance upon the judgment passed by Hon'ble Apex Court in **Dehri Rohtas Light Railway Co. v. District Board, Bhojpur**, reported in AIR 1993 SC 802.

4. Heard learned counsel for petitioner and perused material available on record.

5. Upon careful perusal of the record, this Court observes that petitioner asserts rights over the land in question predicated upon a will purportedly executed by his uncle on 30.07.2015. However, the record unequivocally reveals that rights of late Madan Singh in respect of the said land had already been conclusively adjudicated and extinguished by learned BOR as far back as 2001. The BOR had accepted the reference preferred by Respondent No. 2, holding that no specific entry existed in the revenue records in favour of Madan Singh, thereby extinguishing his title. Notably, Madan Singh himself never challenged the said order at any juncture, rendering the determination final and binding. Consequently, with the rights of petitioner's uncle having been extinguished in 2001, petitioner cannot derive or claim any derivative rights through the aforementioned will executed in

2015, as it cannot revive or confer title over property already lost to final adjudication.

5.1 In such circumstances, petitioner, deriving his claim from a will said to be executed by his late uncle Madan Singh in 2015, cannot be allowed to reopen or reagitate an issue which stood conclusively settled more than two decades ago. A legal position that has attained finality in the year 2001 cannot be permitted to be unsettled after an inordinate lapse of nearly 24 years. Invoking the jurisdiction of this Court to challenge an order after the lapse of such an inordinate period amounts to a gross abuse of the process of Court.

5.2 Notably, impugned order was passed on 23.03.2001 (Annexure-4), whereas present writ petition has been filed in the year 2025, i.e., after a lapse of approximately 24 years. A reading of memo of writ petition reveals that no justification whatsoever, not even for namesake, has been furnished for the delay in filing present writ petition. The writ petition, therefore, suffers from gross laches.

5.3 The law with regard to the delay and laches is no more *res integra* and it is well-settled that even if no period of limitation is provided for filing a writ petition, the same is required to be filed in a reasonable time. Excessive or inordinate delay in filing the writ petition deprives the petitioner of any relief from the court.

5.4 Hon'ble Apex Court in ***Mrinmoy Maity v. Chhanda Koley, (2024) 15 SCC 215*** opined that inordinate delay or laches defeats equity. The relevant paragraphs are reproduced herein below:

"9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that the writ petitioner ought to have been non-suited or in other words the writ petition ought to have been dismissed on the ground of delay and laches itself. **An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be borne in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India.** In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

11. **For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the deadcause of action or resurrect the cause of action which has had a natural death.** In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, inasmuch as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. **It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court."**

5.5 Hon'ble Courts, in a catena of authoritative pronouncements, have consistently held that where a writ in the nature of certiorari is prayed for challenging an order passed by a Civil Court, Revenue Court, or any quasi-judicial authority, such petition is required to be filed within a reasonable period, which has generally been construed to be up to ninety days.

5.6 This Hon'ble High Court in **Noor Khan v. Board of Revenue, 2015 SCC OnLine Raj 8037** held that excessive or inordinate delay in filing the writ petition disentitles the petitioner of any relief from the court. The relevant paragraph is reproduced herein below:

*"10. Indisputably, assailing the legality of order dated 24.8.93 passed by the Board of Revenue, the present writ petition has been filed by the petitioner after a lapse of 6 years. It is pertinent to note that in the petition filed, the order impugned dated 24.8.93 has been referred to as dated '24.8.98' and the petitioner has furnished the explanation of delay for the period February, 1999 to 31.8.1999 and therefore, it goes without saying that the petitioner was well aware that inordinate delay in filing the petition is required to be explained satisfactorily. **However, no explanation whatsoever is set out in the petition for inordinate delay of six years in filing the petition. In the considered opinion of this court, if aggrieved by the order impugned, the petitioner was required to approach this court with utmost expedition and thus, the present writ petition which badly suffers from vice of delay and laches, deserves to be dismissed on this count alone.** However, taking into consideration the fact that writ petition already stands admitted and is pending consideration for all these years, in the interest of justice, this court considers it appropriate to examine the case set out by the petitioner on merits."*

5.7 In order to somehow justify gross delay in filing present writ petition, learned counsel for petitioner placed reliance on **Dehri Rohtas** (*supra*). However, said judgment is clearly distinguishable on facts. Therein, petitioner had adequately explained the circumstances occasioning the delay, namely, that it stemmed primarily from their ongoing pursuit of a civil suit to enforce an unregistered agreement capping their cess liability at a fixed annual sum. In stark contrast, the present writ petition proffers no explanation whatsoever for the delay.

Moreover, Hon'ble Apex Court, in said judgment, observed that test for determining delay is whether petitioner has approached the writ court before creation of any parallel rights, and whether the lapse of time is not attributable to laches or negligence. In the present case, however, the delay of nearly 24 years is manifestly attributable to laches on the part of petitioner.

5.8 Therefore, in view of aforesaid reasoning and judicial pronouncements on issue of delay and laches, this Court is of considered opinion that present writ petition is liable to be dismissed on the ground of inordinate and unexplained delay. Petitioner has failed to furnish even the slightest justification for approaching this Court after an extraordinary lapse of nearly 24 years.

Accordingly, this Court is not inclined to exercise its writ jurisdiction to reopen issues after such a prolonged period of 24 years, and writ petition, being barred by gross delay and laches, deserves to be dismissed.

6. Even otherwise, upon examining the matter on merits, this Court discerns no infirmity in impugned order dated 23.03.2001 passed by learned BOR. A perusal of said order reveals that BOR has rightly rejected the contention of petitioner's uncle, who failed to establish long-standing possession as a cultivator, a prerequisite for khatedari rights and, on the basis of these findings, decided the reference against him. Learned BOR pertinently recorded that it was strange to note the complete absence of any revenue entries in favour of petitioner's uncle for the past 50 years. The findings recorded by learned BOR, are thus founded on cogent material available on record and warrant no interference.

6.1 Moreover, it is a trite law that power of superintendence vested in High Courts under Article 227 of the Constitution of India must be exercised most sparingly and only in appropriate cases to keep subordinate courts and tribunals within the bounds of their authority. The High Court does not assume the role of an appellate forum, re-appreciating evidence or substituting its view for that of the inferior court, but confines interference to instances of patent perversity, grave dereliction of duty, and flagrant abuse of fundamental principles of law or justice, or jurisdictional overreach occasioning manifest injustice. Burdening this judgment with copious quotes from a catena of authoritative precedents such as **Waryam Singh v. Amarnath (1954) 1 SCC 51**, **Shalini Shyamsunder Shetty v. Rajendra Shankar Patil (2010) 8 SCC 329**, **Garment Craft v. Prakash Chand Goel, (2022) 4 SCC 181** would be futile, as the settled jurisprudential position is beyond cavil.

6.2 In view of the aforesaid, petitioner has failed to show any error, much less an error apparent on the face of record, in impugned order dated 23.03.2001. Therefore, same warrants no interference by this Court in its writ jurisdiction and the same is upheld.

7. Consequently, present writ petition, being bereft of merit and being filed by after gross delay of 24 years, is hereby **dismissed**.

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

(SANJEET PUROHIT),J