

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

S.B. Criminal Miscellaneous Application No. 355/2022

Sardari Lal Verma S/o Shri Puranmal, Aged About 72 Years, R/o Gram Sundanpur (Kapadiya), Police Station Sadar Banswara, District Banswara, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Suresh S/o Late Devshankar, B/c Brahmin, R/o Village Sundanpur, Police Station Sadar Banswara, District Banswara, Rajasthan.
3. Smt. Bhagwati Devi W/o Late Shri Devshankar, B/c Brahmin, R/o Village Sundanpur, Police Station Sadar Banswara, District Banswara, Rajasthan.
4. Smt. Kailash W/o Rajendra Joshi, B/c Brahmin, R/o Kupda, Police Station Sadar Banswara, District Banswara, Rajasthan.
5. Smt. Durga @ Durgeshwari W/o Shri Suresh, B/c Brahmin, R/o Village Sundanpur, Police Station Sadar Banswara, District Banswara, Rajasthan.
6. Smt. Nidhi W/o Vishal Jain, R/o Police Station Kotwali, Tehsil And District Banswara, Rajasthan.
7. Smt. Sonal W/o Nilesh Jain, R/o Police Station Kotwali, Tehsil And District Banswara, Rajasthan.
8. Suresh S/o Shri Kachru, B/c Brahmin, R/o Village Sundanpur, Police Station Sadar Banswara, District Banswara, Rajasthan.
9. Rajendra S/o Shankar Lal Joshi, R/o Kupda, Police Station Sadar Banswara, District Banswara, Rajasthan.

-----Respondents

For Petitioner(s)	:	Mr. Ashok Kumar Choudhary
For Respondent(s)	:	Mr. Narendra Thanvi Mr. Amit Dave

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

27/04/2026

1. The instant criminal misc. application has been filed under Section 482 Cr.P.C. seeking recall of the judgment dated 13.09.2022 passed by this Court in S.B. Criminal Appeal No. 945/2020.
2. The present case arises out of two agreements to sell dated 09.07.1992 and 03.07.1995, whereby one Devshankar purportedly agreed to sell the land in question to the present petitioner/applicant. It is an admitted position that both agreements are unregistered and did not culminate into a lawful sale. It is also not disputed that the executor of the agreements, Devshankar, passed away in the year 2002. Further, no grievance or dispute was raised by the petitioner/appellant until the year 2012, despite being a conscious person employed in the revenue department.
3. Learned counsel for the petitioner/appellant submitted that the petitioner was entitled to continue with the prosecution in view of Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, particularly sub-clauses 4, 5, 8, 9 and 15. He further contended that Section 8 of the said Act creates a presumption in favour of the petitioner/appellant. Reliance was also placed on the judgment of the Hon'ble Supreme Court in ***Criminal Appeal No. 707/2020 (Hitesh Verma vs. The State of Uttarakhand & Anr.)*** decided on 05.11.2020, wherein it was held that offences under the Indian Penal Code can proceed even if the offences under the SC/ST Act are not made out.

4. Learned counsel for the petitioner further submitted that as per the agreements, possession of the land was handed over to the petitioner. He argued that even the subsequent registered sale deed executed in favour of a third party (claiming to be a bona fide purchaser) indicated that possession remained with the seller, whereas in fact, it was with the petitioner.

5. Per contra, learned counsel for the respondent submitted that the judgment dated 13.09.2022, which is sought to be recalled, is in accordance with law. He contended that the unregistered agreements to sell dated 09.07.1992 and 03.07.1995 executed by Devshankar cannot be enforced under any provision of law. The petitioner/appellant woke up only in the year 2012, whereas the executor of the agreements had already expired in 2002. He further submitted that the presumption under Section 8 of the SC/ST Act would arise only in the absence of sufficient proof on record; in the present case, no right was created in favour of the petitioner in the first place. There was neither any misbehaviour nor fraud on the part of the respondent and the entire case suffers from gross delay ,therefore, no interference is called for.

6. Having heard learned counsel for the parties and perused the material on record, this Court finds merit in the submissions made by the learned counsel for the respondent. The agreements to sell dated 09.07.1992 and 03.07.1995, on the basis of which the entire case is sought to be built, are unregistered and therefore, could not have created any substantive right in favour of the petitioner. Moreover, the executor of the agreements, Devshankar, expired in the year 2002, whereas the allegations were levelled

much later in the year 2012. There is gross and unexplained delay on the part of the petitioner, who is himself an employee of the revenue department.

7. In view of the above, this Court does not find any error apparent on the face of the record in the judgment dated 13.09.2022 passed by this Court. There is no justifiable ground to recall the said judgment.

8. Accordingly, the present criminal misc. application is dismissed.

(DR. PUSHPENDRA SINGH BHATI),J

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