

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal (Writ) No. 419/2025

Bhairav Grih Nirman Sahakari Samiti Ltd.

----Appellant

Versus

Ghashi & Ors.

----Respondents

For Appellant(s) : Mr. O.P. Mishra

For Respondent(s) : Mr. Hitesh Jain

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA

HON'BLE MR. JUSTICE BIPIN GUPTA

Order

04/05/2026

1. Keeping in view the judgment passed by the Coordinate Bench of this Court in the case of "**Ratna @ Ratan Lal vs. Board of Revenue For Rajasthan At Ajmer Through Its Registrar & Ors.**" reported in 2024(6) WLC 678 (DB) (Raj.), the appeal against the judgment passed by the Board of Revenue is held to be maintainable.

2. *Per contra*, learned counsel appearing for the respondents submits that the aforesaid judgment would not apply to the present facts of the case, as the writ petitioner had filed the writ petition solely under Article 227 of the Constitution of India and not under Article 226 of the Constitution of India whereas, in the case of "**Ratna @ Ratan Lal vs. Board of Revenue**", the petition had been filed both under Articles 226 & 227 of the Constitution of India. Further, he invites attention to the provision of Section 5(35) of the Rajasthan Tenancy Act wherein, the "Revenue Court" has been defined to mean a Court and thus, if any order is passed by the Revenue Court, it would be akin to an order passed by the Civil Court and once the writ has been decided, Special Appeal in

terms of Rule 134 of the Rajasthan High Court Rules, 1952 would not lie.

3. We have considered the submissions.

4. We notice that in the aforesaid judgment passed in the case of "**Ratna @ Ratan Lal vs. Board of Revenue**", the aspect regarding the provisions of Section 5(35) of the Rajasthan Tenancy Act were already considered by this Court. That apart, the Full Bench of this Court in the case of "**Ramesh Chand Tiwari & Ors. vs. Board of Revenue & Ors.**" (*Special Appeal (Writ) Nos.1383 of 1996 and 113 of 1997, dt. 24.03.2005*), has considered the provision of Rule 134 of the Rajasthan High Court Rules, 1952 and has concluded as under :

"(i) The power of superintendence conferred on the High Court under Article 227 of the Constitution is always in addition to the revisional jurisdiction. It is wider than one conferred by Article 226 in the sense that it is not subject to those technicalities of procedure or traditional fetters which are to be found in certiorari jurisdiction. Jurisdiction under Article 227 is not an original jurisdiction but it is akin to appellate, revisional or corrective jurisdiction.

(ii) Any person desiring to prefer intra-Court appeal from the judgment/order of the Single Judge, may present the same before the Division Bench but if the Division Bench finds that the judgment/order of the Single Judge was rendered purely in exercise of revisional jurisdiction, the intra-Court appeal shall stand dismissed as not maintainable.

Judgments/orders passed by the Single Judge in exercise of wider supervisory jurisdiction under Article 227 are amenable to intra-Court appeals."

5. Thus, the facts of each case will have to be examined to see whether the power has been exercised by the learned Single Judge under Article 227 or under Article 226 of the Constitution of India. The argument to reject the appeal at the threshold holding it to be not maintainable is held to be unjustified. We are bound by the Full Bench judgment of this Court and, therefore, the contention raised by the respondents of the appeal not being maintainable is rejected. However, at the time of examining the Special Appeal on merits, this Court would examine whether the power was exercised by the learned Single Judge solely under Article 227 or under Article 226 of the Constitution of India also.

6. With the said observations, the present Special Appeal (Writ) is held to be maintainable. Let both the learned counsels address on merits of the case on 13.07.2026.

(BIPIN GUPTA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ