HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 229/2014
URN: CW / 393U / 2014

The State of Rajasthan through Tehsildar Jamwaramgarh, District Jaipur.

----Petitioner

Versus

1. Madan Lal, S/o Ramniwas, R/o Andhi, Tehsil Jamwaramgarh, District Jaipur.
2. Laduram, S/o Moolchand, R/o Andhi, Tehsil Jamwaramgarh, District Jaipur.
3. Hanuman, S/o Moolchand, R/o Andhi, Tehsil Jamwaramgarh, District Jaipur.
4. Laxminarayan, S/o Moolchand, R/o Andhi, Tehsil Jamwaramgarh, District Jaipur.
5. Girraj Prasad, S/o Ram Kishore Sharma, R/o Andhi, Tehsil Jamwaramgarh, District Jaipur.
6. Radhey Shyam, S/o Ramji Lal Sharma, R/o Andhi, Tehsil Jamwaramgarh, District Jaipur.
7. Om Prakash S/o Sh. Ramjilal Sharma, R/o Bhagwanpura, Tehsil Jamwaramgarh, District Jaipur.
8. Smt. Gulabdevi, W/o Bhanwar Lal Sharma, (since deceased) through her legal heir.

8/1. Jagdish S/o Bhanwar Lal Sharma, R/o Plot No. A-25 Laxminarainpuri, Jaipur.

9. Suresh Chandra S/o Sh. Harinarayan Sharma, R/o Bhagwanpura, Tehsil Jamwaramgarh, District Jaipur.
10. Choganlal Sharma (since deceased) through his legal heir-

Kajodmal, S/o Chougan Lal

Radhey Shyam, S/o Chougan Lal
Siyaram
All sons of Chougan Lal, R/o Nayabas Jamwaramgarh, District Jaipur.

11. Board of Revenue Rajasthan, Ajmer.
12. Revenue Appellate Authority, Jaipur.
13. Gram Panchayat Phutalao, Tehsil Jamwaramgarh, District Jaipur through its Sarpanch Shri Jitendra Sharma, S/o Shri Ram Swaroop Sharma

----Respondents

For Petitioner(s) : Mr. G.S. Gill, AAG with
Mr. Manoj Choudhary,

		Mr. Yadvendra Patel and Ms. Ritu Mishra
For Respondent(s)	:	Mr. Ajeet Bhandari, Sr. Adv. assisted by Mr. Rakshit Jain, Mr. Raghavendra Singh Khichi Mr. Sandeep Pathak with Mr. Utkarsh Meena Mr. Arnav Singh Mr. Jitendra Mishra with Mr. Sanjay Sharma for Mr. Himanshu Sogani Mr. Sanjay Sharma Mr. Rajesh Kumar Parashar Mr. Krishan Sharma with Mr. Pawan Sharma and Mr. Vaibhav Pancholy

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HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

REPORTABLE

Date of conclusion of arguments	**::**	**09.07.2026**
Date on which judgment was reserved	**::**	**09.07.2026**
Whether the full judgment or only the operative part is pronounced	**::**	**Full Judgment**
Date of pronouncement	**::**	**23.07.2026**

1. By way of filing this writ petition, the petitioner- State of Rajasthan has challenged judgment dated 16.04.2013 passed by the Board of Revenue, whereby appeal filed by the petitioner against judgment dated 24.10.2002 passed by the Revenue Appellate Authority, Ajmer has been dismissed. Petitioner has further prayed for upholding order dated 22.05.2002 passed by the Additional Collector-III, Jaipur for cancelling mutation Entry No.25 dated 12.04.1961.

2. Facts in brief are that land bearing Khasra No.2 Rakba 7.02 Bigha, Khasra No.3 Rakba 4.10 Bigha, Khasra No.9 Rakba 4.18 Bigha, Khasra No.24 Rakba 08.18 Bigha, Khasra No.25 Rakba 8.13 Bigha, Khasra No.27 Rakba 10.08 Bigha, Khasra No.28 Rakba

4.12 Bigha, Khasra No.39 Rakba 4.17 Bigha, Khasra No.30 Rakba 8.05 Bigha, Khasra No.46 Rakba 9.07 Bigha, Khasra No.47 Rakba 3.11 Bigha, Khasra No.48 Rakba 10.08 Bigha total Kita 12 Rakba 91 Bigha 05 Biswa is situated in Village Phutolao, Tehsil Jamwaramgarh, District Jaipur. *Khatedari* rights in respect of aforesaid land were granted in favour of respondent- Madan Lal on 12.04.1961. Allegations of the petitioner are i.e. on 12.04.1961, the respondent- Madan Lal was a minor, ageing 10 years, and his father was patwari in the Revenue Department.

3. A complaint was made in respect of several irregularities committed in making different revenue entries/allotments in Village Phutolao, Tehsil Jamwaramgarh, District Jaipur. State Government constituted Justice B.P. Beri Commission to conduct enquiry into the matter. After examining the record, Beri Commission gave its report dated 28.01.1995 with the opinion that such allotments and *khatedari* rights were illegal, and accordingly recommendation was made to cancel such allotment by undertaking exercise under Rule 14(4) of the Rajasthan Land Revenue (Allotment of Agricultural Land) Rules, 1970 (hereinafter to be referred as 'the Rules of 1970'), after affording opportunity of hearing to the concerned person.

4. Petitioner has set up a case that in view of the recommendation given by the Beri Commission, Case No.48/95 was registered by the Court of Additional District Collector-III, Jaipur under Rule 14(4) of the Rules of 1970. However, during the proceedings, the Additional Collector-III noticed that it was not a case of allotment under the Rules of 1970 and rather k*hatedari* rights were conferred upon Madan Lal by virtue of Section 15 of

the Rajasthan Tenancy Act, 1955, hence, no action can be taken against the concerned *Khatedar* under the allotment Rules of 1970; however, the Additional Collector-III came to the conclusion that since at the time of conferment of *khatedari* rights, respondent- Madan Lal was a minor, aging 10 years and his father Ram Prasad was patwari in Revenue Department, therefore, the Mutation Entry No.25 dated 12.04.1961 was cancelled.

5. Thereafter, the affected persons filed appeal before the Revenue Appellate Authority under Section 75 of the Rajasthan Land Revenue Act, 1956. The Revenue Appellate Authority allowed the appeal and quashed order dated 22.05.2002 passed by the Additional Collector-III.

6. Feeling aggrieved, the petitioner filed second appeal under Section 76 of the Rajasthan Land Revenue Act, 1956 for assailing the judgment dated 24.10.2002 passed by the Revenue Appellate Authority. However, the second appeal filed by the petitioner has been dismissed by the Board of Revenue vide judgment dated 16.04.2013.

7. Mr. G.S. Gill, learned Additional Advocate General, at the outset submitted that the Revenue Appellate Authority as well as Board of Revenue have utterly failed to appreciate that order dated 22.05.2002 was passed by the Additional Collector-III in the capacity of Land Record Officer, therefore, such order could have been challenged only before the Director, Land Records and not before the Revenue Appellate Authority. Hence, judgment dated 24.10.2002 passed by the Revenue Appellate Authority was without jurisdiction, and this aspect was also not properly appreciated by the Board of Revenue. Learned AAG submitted that

the question of jurisdiction, although not raised by the petitioner before the Revenue Appellate Authority, goes to the root of the matter, it could have been raised by the petitioner at any stage. Hence, it was rightly raised by the petitioner at the stage of second appeal before the Board of Revenue. The Board of Revenue could not have avoided decision over the question of jurisdiction of the First Appellate Authority. Consequently, the judgment dated 24.10.2002 passed by the Revenue Appellate Authority as well as judgment dated 16.04.2013 passed by the Board of Revenue, Ajmer are suffering from serious error of law and jurisdiction. Learned AAG placed reliance upon judgment of Supreme Court in **Harshad Chimanlal Modi Vs. DLF Universal Ltd. & Anr., AIR 2006 SC 646**.

8. Learned AAG reiterated the pleadings that after inquiry, Beri Commission recommended for cancellation of *khatedari* rights of respondents on account of the fact that in the year 1961, when mutation was opened, the beneficiary was a minor and his father was patwari, who had used his influence to open the mutation in favour of his minor son. Learned AAG submits that as such apparent illegality have been committed by the Revenue Authorities while opening mutation in favour of the respondents, which was rightly cancelled by the Additional Collector-III, but without properly examining the legal provisions order passed by the Additional Collector has wrongly been quashed by Revenue Appellate Authority and such illegal order of Revenue Appellate Authority have been upheld by the Board of Revenue.

9. The writ petition was opposed by the respondents. Learned Senior Counsel, Mr. Ajeet Bhandari, appearing for the

respondents submitted that learned Revenue Appellate Authority as well as Board of Revenue have passed the impugned judgments after duly appreciating facts of the case, material on record and law prevailing at the relevant time, and there is no infirmity or illegality in the impugned judgments. There are concurrent findings of facts of two Courts against the petitioner, who has utterly failed to point out any perversity in the impugned judgments. Hence, the writ petition filed by the petitioner is liable to be rejected.

10. Learned Senior counsel appearing for the respondents submitted that at this stage, the question of jurisdiction of Revenue Appellate Authority to entertain appeal against order dated 22.05.2002 passed by the Additional District Collector-III cannot be raised by the petitioner- State, and even otherwise such objection is totally misconceived and baseless. It is emphasized that bare perusal of order dated 22.05.2002 would make it clear that such order has been passed while exercising powers under Rule 14(4) of the Rules of 1970.

11. The aforesaid order dated 22.05.2002 passed by the Additional District Collector-III also refers to recommendation made by Beri Commission to take legal action in the matter, and it is also evident from the recommendation of Beri Commission dated 28.01.1995, that the Commission specifically recommended for taking action for cancellation of allotment/regularisation after giving notice under Rule 14(4) of the Rules of 1970. Learned Senior counsel also submits that as per statutory scheme, remedy of appeal against an order passed under Rule 14(4) of the Rules of 1970 admittedly lies before the Court of Revenue Appellate

Authority and on filing appeal by the respondents before the Revenue Appellate Authority, notices were issued to the petitioner-State Government, which contested the matter on merits, without raising any objection whatsoever with regard to lack of jurisdiction by the Revenue Appellate Authority. Although, such objection was later raised by the State Government in second appeal filed before the Board of Revenue by the State Government, yet such objection of the State Government has rightly been rejected by the Board of Revenue with a cogent finding that the question with regard to maintainability of appeal before the Revenue Appellate Authority cannot be raised at this stage of second appeal, especially since it was never raised by the petitioner before the concerned Revenue Appellate Authority.

12. Learned Senior counsel further submitted that such objection with regard to maintainability of appeal before the Revenue Appellate Authority is being raised by the respondent-State, solely on the ground that although the application was filed by the State Government under Rule 14(4) of the Rules of 1970 before the Additional District Collector-III, yet instead of exercising powers under the aforesaid Rules, the Additional District Collector on his own allegedly assumed jurisdiction under Section 15 and order was passed by him in the capacity of Land Record Officer.

13. Learned Senior counsel submitted that the moment, the Additional District Collector realised that the application under Rule 14(4) of the Rules of 1970 filed by the State Government was not maintainable under the Rules, he could have rejected the same by granting liberty to the State to move proper application

under the relevant Rules. Once, the application was entertained by the Additional Collector under Rule 14(4) of the Rules of 1970 and order was passed thereupon, the only remedy before the private respondents was to approach the Appellate Authority established for hearing appeals against order passed under Rule 14(4) of the Rules of 1970. It has not been disputed by the State Government that the appeal against an order passed under Rule 14(4) of the Rules of 1970 is maintainable before the Revenue Appellate Authority, which has got right to entertain and adjudicate such appeals on merits. At the cost of repetition, it was submitted that since, no objection with regard to maintainability of appeal before the Revenue Appellate Authority was raised by the State Government, hence, such appeal has rightly been decided by the Revenue Appellate Authority on merits.

14. Learned Senior counsel further submitted that ground for cancellation of mutation, as given in order dated 22.05.2002 by the Additional District Collector, is that at the relevant time, Madan Lal, was a minor aging only ten years and his father since, was holding the post of Patwari in the respondent- Revenue Department, might have influenced the proceedings with regard to opening of mutation No.25 dated 12.04.1961. Learned Senior counsel further submits that the documents with regard to age of Madan Lal were placed on record showing his date of birth as 31.10.1941 on the basis of certificate issued by the Head Master of Government Middle School, Andhi, and in case, age of Madan Lal is calculated on the basis of aforesaid date of birth, then as on the date of opening of mutation entry, Madan Lal had completed age of around 19 and half years. Thus, it is evident from the

record that on the date of mutation entry, Madan Lal was not a minor.

15. Learned Senior counsel further submitted that assuming for a moment that as on the date of opening of mutation, Madan Lal was minor and had not attained age of majority, even then in the instant case, where mutation was opened under Section 15 which is nothing but conferment of *khatedari* rights by operation of law in favour of the tenants, and under such provision or anywhere in the Rajasthan Tenancy Act, 1955 (hereinafter to be referred as 'the Act of 1955') there is no prohibition whatsoever regarding conferment of *khatedari* rights upon a minor. Hence, viewing it from any angle, the ground for cancellation of mutation entry vide order dated 22.05.2002 was totally misconceived and against the provisions of law.

16. Learned Senior counsel further submitted that so far as allegation that father of Madan Lal was a Patwari is concerned, a categorical statement was made by learned Senior Counsel that it is not disputed that father of Madan Lal was holding the post of Patwari, yet the correct facts are that he was not holding the charge of concerned Patwar Halka (concerned area). Hence, he was having no control whatsoever over the functioning of revenue authorities of that particular revenue village in respect of which mutation entry No.25 dated 12.04.1961 was made. Learned Senior counsel further submits that no evidence whatsoever has been placed on record so as to infer any kind of influence of father of Madan Lal, which might have affected the mutation proceedings. Merely, the fact that father of *Khatedar* was an official in the Revenue Department, *ipso facto*, does not lead to

any adverse inference on the basis of fake assumptions, and otherwise also there is no prohibition under law in conferring k*hatedari* rights even to those persons, whose family members are employed in respondent- Revenue Department.

17. Learned Senior counsel also submitted that the time gap between opening of mutation entry dated 12.04.1961 and cancellation thereof vide order dated 22.05.2002 is of more than 40 years, and assuming for a moment that there is no prescribed limitation for cancelling the mutation entry under the Act of 1955, yet such action even if, not directly affected by law of limitation, can be permitted to be taken within a reasonable time and by no stretch of imagination a gap of more than 40 years between the sanction of mutation entry and cancellation thereof can be said to be a reasonable time.

18. Mr. Sandeep Pathak, learned counsel appearing for some of the contesting respondents while adopting the arguments raised by Mr. Ajeet Bhandari, learned Senior counsel present for co-respondents submitted that the entire exercise undertaken by the Additional District Collector under Rule 14(4) of the Rules of 1970 in order to cancel a mutation entry opened by virtue of Sections 15 of the Act of 1955, was without authority of law and jurisdiction; hence, no illegality or infirmity whatsoever has been committed by the Revenue Appellate Authority as well as the Board of Revenue in quashing the order passed by the Additional District Collector-III dated 22.05.2002.

19. It was also pointed out by learned counsel for the respondents that at the relevant time there was no process in the then State of Jaipur for maintaining jamabandis and making

entries therein. For the purpose of record, Khasra Girdawari used to be regularly maintained, and in the Khasra Girdawari prepared for the period prior to mutation entry dated 12.04.1961 name of Madan Lal was there as tenant of land in question, hence, in view of Section 15 of the Act of 1955 read with Section 19, no mistake whatsoever has been committed in opening mutation in favour of Madan Lal, who was in cultivatory possession before the commencement of the Act of 1955.

20. Learned Senior counsel for the respondents relied upon the judgments of **Surajmal Vs. State of Rajasthan (1959 RRD 173), Abdul Hameed Khan Vs. Board of Revenue (2006 (1) RLW (RJ) 52), Mor Mukut Singh Vs. Board of Revenue (2015 0 Supreme (Raj.) 374), Deepa Vs. State of Rajasthan & Ors. (1996 RRD 535), State of Rajasthan Vs. Prem Shankar (2001 (1) DNJ 248), Niranjan Singh Vs. State of Rajasthan (AIR 1975 Raj. 93), Brij Lal Vs. Board of Revenue (1994 AIR (SC) 1128), Radha Kishan Vs. State of Rajasthan (2016 (2) WLC 96), Tara & Ors. Vs. State of Rajasthan & Anr. (2015 SCC OnLine Raj. 1332) and Santoshkumar Shivgonda Patil and Ors. Vs. Balasaheb Tukaram Shevale & Ors**.

20. Final arguments advanced by learned counsel for both the parties, were heard by this Court on 09.07.2026, and after conclusion of arguments, the matter was closed and judgment was reserved on that day itself.

21. Thereafter, photocopy of an application under Article 226 of the Constitution of India read with Section 151 CPC for taking additional documents on record was supplied to the office

of this Court and on enquiry, it was found that although the arguments were concluded by both the parties on 09.07.2026 and in their presence the judgment was reserved, without seeking prior permission of this Court, the said application has been filed by the petitioner in Registry on 13.07.2026. It is settled proposition of law that after conclusion of the arguments and moreso, when judgment has been reserved, rights of both the parties with regard to filing of any additional documents of pleadings also stand closed and the Court is required to deliver the judgment on the basis of pleadings, documents and material already on record as well as on the basis of arguments advanced by both the parties. The reason behind such proposition is that the proceedings of the case cannot be allowed to continue for an uncertain period and must come to an end, insofar as filing of pleadings and documents are concerned, as soon as the judgment is reserved by the Court.

22. This Court finds that even otherwise the said application dated 13.07.2026 filed by the petitioner- State Government is malicious in nature, for the reason that on perusal of different order-sheets of this case, it would reveal that earlier on so many occasions, last opportunity was granted to the petitioner place documents on record and to argue the matter. On 07.08.2025, the Co-ordinate Bench of this Court passed the following order:-

> "*Again a request has been made by the counsel for the petitioner to defer the matter for some other day.*
>
> *Counsel for the respondents opposed the prayer and submitted that every time, the same request is made whenever the matter is listed before this Court.*
>
> *By way of last opportunity, list on 18.08.2025.*

> *It is made clear that no further request for adjournment would be entertained on the next date.*"

23. When despite the order dated 07.08.2025 making it clear that no request for adjournment would be entertained in future, again on 18.08.2025, a similar request was made thereupon, whereby the Court passed the following order:-

> "*Counsel for the petitioner seeks time to argue the matter.*
>
> *Counsel for the respondent opposed the prayer.*
>
> *By way of last opportunity, list this matter on 26.08.2025.*
>
> *It is made clear that no further request for adjournment would be entertained on the next date.*"

24. Thereafter on 09.09.2025, while observing the conduct of the petitioner, following order was passed by the Co-ordinate Bench of this Court:-

> "*Again a request has been by counsel appearing on behalf of the petitioner to defer the matter for some other day.*
>
> *Counsel for the respondent opposed the prayer and submitted that this petition is lying pending for adjudication before this Court since 2014 and every time, time has been sought.*
>
> *Counsel submits that on last occasion also last opportunity was granted to the counsel for the petitioner to argue the matter. Counsel submits that looking to the issue involved in this matter, the matter requires urgent hearing.*
>
> *In the interest of justice, last and final opportunity is granted to the counsel for the petitioner to argue the matter.*
>
> *List this matter in next week.*
>
> *In case, similar request is made on the next date, appropriate orders would be passed.*"

25. Thereafter, when the matter was listed on 19.09.2025, learned counsel for the petitioner- State sought time to file relevant documents and such prayer was seriously opposed by learned Senior counsel for the respondents, still in the interest of justice by way of granting last opportunity, the matter was posted on 14.10.2025 with clear instructions that no further request for

adjournment would be entertained. On 19.09.2025, following order was passed by the Co-ordinate Bench of this Court:-

> "*Counsel for the State-petitioner again needs some time to produce relevant documents on the record. Counsel submits that while preparing the matter, some facts have come into notice, which are required to be taken on record by way of filing appropriate application.*
>
> *Counsel appearing on behalf of the respondents opposed the prayer and submitted that concurrent finding has been recorded against the petitioner. This petition is lying pending before this Court since 2014 and the case has been deferred from one date to another. Counsel submits that looking to the issue involved in the matter, the case requires urgent hearing, therefore the case be not deferred.*
>
> *By way of last opportunity, list this matter again on 14.10.2025.*
>
> *It is made clear that no further request for adjournment would be entertained on the next date.*"

26. The aforesaid orders clearly show that despite granting so many opportunities, referring the same to be last opportunities, petitioner- State always avoided to argue the matter, and in order to cause delay even a request was made to produce relevant documents, which allegedly came to notice of learned counsel for the petitioner during preparation of the case. Accordingly, on 19.09.2025, last opportunity was given to the petitioner- State.

27. Thereafter, even after a lapse of long time period of more than four months, no document whatsoever was filed by the petitioner- State, then on 03.02.2026 after recording the earlier orders, following order dated 03.02.2026 was passed by the Co-ordinate Bench of this Court:-

> "*Attention of this Court has been drawn to the order dated 07.08.2025, vide which a last opportunity was granted to the petitioner to argue the matter with a further observation that no request for adjournment would be made thereafter.*
>
> *Again on 18.08.2025, a last opportunity was granted to the petitioner with the direction that no further adjournment would be entertained, yet again on 09.09.2025, a last and final opportunity was granted to the petitioner to argue the matter.*

> *Further, even on 19.09.2025, on the pretext of the State requiring to file certain documents, a last opportunity was granted with the further mandate that no further adjournment would be entertained.*
>
> *Today again, time is being sought for filing documents.*
>
> *In the facts obtained, there is no occasion whatsoever for granting any further time to file any document.*
>
> *List the matter on 17.02.2026, on the assurance made learned counsel for the petitioner that he will be arguing the matter on the next date.*"

28. Bare perusal of the order dated 03.02.2026 would reveal that since despite granting so many opportunities, documents, if any, were not filed by the petitioner- State, therefore, by way of passing specific order dated 03.02.2026, the Co-ordinate Bench of this Court closed the opportunity of the petitioner- State to file any further document, and the matter was posted on 17.02.2026 on the assurance of learned counsel for the petitioner to argue the matter on the next date. After so many adjournments in between on 07.07.2026, the matter was listed before this Court, and in quite surprising manner on 07.07.2026 also, adjournment was sought by the learned counsel appearing for the petitioner- State. Thereupon, following order was passed by this Court on 07.07.2026:-

> "*Last opportunity is granted to learned counsel for the petitioner to argue the matter and, in case, learned counsel for the petitioner does not choose to argue the matter on the next date, the matter shall be decided after hearing learned counsel for the respondents.*
>
> *Let the matter be listed on 9th July, 2026.*"

29. The matter was posted for hearing on 09.07.2026. Thereafter, on 09.07.2026 both the counsels advanced their arguments in detail and after conclusion of their arguments, the judgment was reserved. Thus, it is clear that so many

opportunities earlier granted to the petitioner were not availed and despite the fact that this petition was filed away back in the year 20.12.2013 and all opportunities to file any further documents were also closed by this Court by way of passing specific order, after conclusion of arguments and when the judgment was reserved on 09.07.2026, in quite shocking and surprising manner, one application dated 13.07.2026 has been filed seeking permission to place additional documents on record.

30. In the case of **Arjun Singh Vs. Mohinder Kumar & Ors., AIR 1964 SC 993**, the Hon'ble Supreme Court, while dealing with a situation where after closure of arguments and reserving the judgment, an application under Order 9 Rule 7 CPC was filed by one of the defendant, it was observed that where the parties have completed arguments and judgment is reserved, there remains no further rights and privileges of the parties to file any further application. It is only for the convenience of the Court that Order XX Rule 1 CPC permits judgment to be delivered after an interval after the hearing is completed. The Apex Court further observed that there is no hiatus between the two stages of reservation of judgment and pronouncing the judgment.

31. Following the aforesaid judgment of the Supreme Court, Division Bench of this Court in the case of **Pujya Sindhi Panchayat Vs. C.L. Mishra, MANU/RH/0293/2002**, which deals with a similar situation has held that after the judgment was reserved then any further application would have no effect and it would be treated as if no such application was filed. Relevant part of the judgment is being quoted as under:-

"*Where hearing is completed the parties have no further rights or privileges in the matter and it is only for the convenience of the Court that Order 20 Rule 1 permits Judgment to be delivered after an interval after the hearing is completed. It would, therefore, follow that after the judgment is re served there remains no stage in any case. Thus, there is no hiatus (break) between the two stages of reservation of Judgment and pronouncing it. For that, the decision of the Hon'ble Supreme Court in Arjun Singh v. Mohindra Kumar MANU/SC/0013/1963: AIR 1964 SC 993 may he referred t to.*

Since in the present case, the judgment was reserved by the division Bench of this Court on 16-3-2000 and the application under Article 226 of the Constitution of India read with Order 1 Rule 10 CPC was filed on 22-3-2000 i.e. after the judgment was reserved, therefore, the said application would have no effect and it would be treated as if no such application was filed before the Division Bench of this Court."

32. In the light of aforesaid facts and circumstances and different orders passed by the Co-ordinate Benches of this Court as well as by this Court, it is clear that there were no extraordinary circumstances, which prevented the petitioner from filing the additional documents during the course of proceedings of this case, this Court does not find it just and proper to permit the petitioner- State to file application even after the judgment is reserved. Hence, the application filed by the petitioner dated 13.07.2026 for placing the additional documents on record is hereby dismissed.

While dismissing the application, this Court is constrained to deprecate the actions of officers of petitioner- State Government, who ought to have acted in a more responsible and vigilant manner, yet by way of filing the present application on 13.07.2026 despite the fact that on 09.07.2026 after completion of argument the judgment was reserved, is nothing but a sheer attempt to interfere in the process of dispensation of justice.

33. Coming to merits of this case, this Court finds that the issue involved in this writ petition revolves around Section 15 of the Rajasthan Tenancy Act, 1955 as well as Rule 14 of the Rajasthan Land Revenue (Allotment of Land for Agricultural Purposes) Rules, 1970. Hence, the aforesaid provisions are reproduced as under:-

> "***15. Khatedar tenants -*** *(1) Subject to the provisions of section 16 and clause (d) of sub-section (1) of section 180 every person who, at the commencement of this Act, is a tenant of land otherwise than as a sub-tenant or a tenant of Khudkasht or who is, after the commencement of this Act, admitted as a tenant otherwise than a sub-tenant or tenant of Khudkasht or an allottee of land under, and in accordance with, rules made under section 101 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956) or who acquries Khatedari rights in accordance with provisions of this Act or of the Rajasthan Land Reforms and Resumption of Jagir Act, 1952 (Rajasthan Act VI of 1952) or of any other law for the time being in force shall be a Khatedar tenant and shall, subject to the provision of this Act be entitled to all the rights conferred; and be subject to all the liabilities imposed on Khatedar tenants by this Act:*
>
> ***Provided*** *that no Khatedari rights shall accrue under this section to any tenant, to whom land is or has been let out temporarily in Gang Canal, Bhakra, Chambal or Jawai project area or any other area notified in this behalf by the State Government.*
> *(2) Notwithstanding anything contained in sub-section (1) Khatedari rights shall not accrue there under to any person to whom land had been let out before the commencement of this Act by the State Government in furtherance of the Grow More Food Campaign or under some special order subject to some specified conditions or in pursuance of some statutory or non-statutory rules and who shall have, before such commencement, made a default in securing the objective of such campaign or a breach of any such order, condition or rule.*
> *(3) Any person referred to in sub-section (2) may, within three years from the date of commencement of this Act and on payment of a court-fee of twenty five naye paise apply to the Assistant Collector having jurisdiction praying for a declaration that acquired Khatedari right under sub-section (1) in the land held by him.*
> *(4) Such application may be made on any of the following grounds, namely:*
> *(a) that the land held by him was let out to him after the commencement of this Act.*
> *(b) that it was not let out to him in any of the circumstances specified in sub-section (2).*
> *(c) that when the land was so let out to him he was not apprised of such circumstances.*

(d) that he had, before such commence ment made no default or breach of the nature specified in sub-section (2).

(5) The Assistant Collector shall, upon the presentation of an application under sub-section (3), make inquiry in the prescribed manner and afford reasonable opportunity to the applicant of being heard and shall, if he does not reject the application, declare the applicant to have become Khatedar tenant of his holding in accordance with and subject to the provisions of the sub-section (1).

Rule 14. Condition of Allotment. - *(i) The allotment of land under these rules shall be on a Gair Khatedari tenancy with a right to ultimate conferment of Khatedari rights after the expiry of [3 years] provided the allottee fulfill during this period the terms and conditions of allotment until Khatedari rights are conferred. The allottee shall have all the rights and be subjected to all liabilities of a Gair Khatedar tenant under the Tenancy Act:*

[Provided also that the allotment of land may be cancelled at any stage by the Collector before the expiry of a period [3 years], if the land is required for public purpose:

Provided further that no such order to the prejudice of such person shall be passed without giving him an opportunity of being heard.]

[xxx]

[(1-a) In case where allotment of land is made to a married agriculturist, the allotment shall be made in the joint names of husband and wife and the allottees, in such case, shall be deemed to be joint allottees.]

(2) Rent at the sanctioned rent rate applicable to the land, or if the land applied for and allotted is unassessed, at the lowest class of Barani land in the village for irrigated land at the Chahi or Nehri rates, as the case may be, for Chahi or Nehri irrigated lands of the village shall be payable from the first year of allotment.

[(3) The allottee shall have to bring the land under cultivation and shall utilise it properly.]

Provided that this period may be extended by the Tehsildar by one year if, due to unforeseen causes over which the allottee had no control, he was unable to cultivate the land within the stipulated period.

(4) The Collector shall have the power to cancel any allotment made by a Sub-Divisional Officer [or a Tehsildar under the rules repealed by Rule 21 of the rules] either suo moto or on the application of any person in case the allotment has been secured through fraud or misrepresentation or has been made against rules or in case the allottee has committed breach of any of the conditions of allotment:

Provided that no such order to the prejudice of any person shall be passed without giving such person an opportunity of being heard.

(5) The allottee shall pay to the State Government the price of the wells and permanent structures if any, existing on the land, as also the price of trees standing on the land at rates prescribed by rules made under Section 80 and 81 of the Tenancy Act.

(6) Before acquisition of Khatedari rights the allottee shall not construct any permanent structures or buildings other than a tank, well or dwelling a house

within the meaning of an "improvement" as defined by clause (19) of Section 5 of the Tenancy Act.

(7) In case of land situated within a radius of 10 miles of Jaipur City, the allottee shall also pay the price of trees at rate of Fifteen rupees and 25 paisa per bigha:

Provided that no such price shall be charged if the number of trees standing in a bigha of land is less than five.

(8) The land shall be liable to be resumed by the State Government without payment of compensation if-

(a) it is not brought under cultivation strictly in accordance with the condition of allotment and it is not properly utilised;

(b) it is sub-let or transferred in contravention of the provisions of Tenancy Act applicable to Gair Khatedar tenants;

(c) it is found that the allottee was not a [landless agriculturist];

(d) the allottee makes default in the timely payment of the price referredto in clause 5 of the rule and/or the annual rent; or (e) the allottee makes construction on the land in contravention of the allotment rules.

[(9) In case the land allotted is grass land or subject to erosion, the allottee shall have to undertake the work of soil conservation as and when directed by an Officer of the Agriculture Department authorised in this behalf.]"

34. It is undisputed that the mutation entries were opened in favour of the respondent- Madan Lal on 12.04.1961. The petitioner has come out with the case that to ascertain irregularities in allotment of land pointed out in so many cases, the petitioner- State Government appointed Beri Commission to examine the alleged irregularities and to give it's report. As per the petitioner, report was given by the Commission on 28.01.1995, wherein two irregularities were pointed out; first, at the time of mutation entry dated 12.04.1961, respondent- Madan Lal was minor, aging only ten years and second, his father was holding the post of Patwari in Revenue Department.

35. Bare perusal of order dated 16.04.2013 passed by the Board of Revenue, Ajmer would reveal that after examining the documents placed on record on behalf of the respondents, a

categorical finding has been given that date of birth of respondent- Madan Lal was 31.10.1941, which shows that as on 12.04.1961 i.e. the date of opening mutation entry in his favour, evidently he had attained the age of majority. Thus, the first irregularity pointed out by the Commission, which is the basis of order of cancellation of mutation entry, is against the record and is not tenable.

36. As regards, the second irregularity pointed out by the petitioner- State on the basis of report of Beri Commission is that at the relevant time father of the respondent- Madan Lal was working as Patwari in the Revenue Department, and he could have influenced the proceedings of recording mutation entry in favour of respondent- Madan Lal. This Court finds that nothing has been placed on record by the petitioner- State to show that father of respondent- Madan Lal was Patwari of the concerned Patwar Halka (revenue village), where the land in question was situated and in respect of which disputed mutation entry was opened in favour of respondent- Madan Lal. Whereas, a categorical statement has been extended by learned Senior Counsel for respondents that father of respondent- Madan Lal, although holding the post of Patwari, yet was never posted in the concerned Patwar Halka (revenue village).

37. In addition to above, no *iota* of evidence of any kind whatsoever has been placed on record to infer any kind of influence of father of the respondent in opening mutation entry in favour of the respondent- Madan Lal. Even otherwise, admittedly such mutation entries are entered in the Revenue Record after approval of the same by higher officers.

38. It is quite significant to mention here that the Rajasthan Tenancy Act, 1955 came into force on 14.03.1955, which lays down the provisions for conferment of *khatedari* rights. As per Section 15 of the Act of 1955, every person who was a tenant at the commencement of the Act, shall be admitted as tenant as under the Act of 1955.

39. Section 19 of the Act of 1955 also provides for the eventualities under which *khatedari* rights can be conferred and one of such provision is that every person, whose name at the commencement of the Act of 1955 was entered in annual register as sub-tenant or *Khudkasht*, then *khatedari* rights can be conferred upon him.

40. The land in question, admittedly, is situated in District Jaipur. Learned Senior counsel for the respondents emphasized the fact that prior to enforcement of the Rajasthan Tenancy Act, 1955 and during the erstwhile State regime, *jamabandis* were not maintained in State of Jaipur, and instead thereof Khasra Girdawari was considered to be record of rights. By relying upon Khasra Girdawari for the relevant period in respect of land in question, learned Senior counsel for the respondents pointed out that name of respondent- Madan Lal was existing as tenant of the land in question much prior to enforcement of the Act of 1955, therefore, under such circumstances, it can be held that by virtue of and in the light of Section 15 and 19 of the Act of 1955, the *khatedari* rights would be conferred automatically upon respondent- Madan Lal by operation of law.

41. In the case of **Surajmal (supra)**, while considering question of annual register maintained in former Jaipur State, this

Court has observed that Khasra Girdawari maintained in former Jaipur State was an annual register and creates a presumption that the entries made therein were true. Para-7 of the above judgment is relevant and is quoted as under:-

> "*It was next contended that the existence of the entry in the Girdawari is not proof of its correctness. The point came up for decision in Mala vs Board of Revenue (D. B. C Writ Petition No. 185 of 1953, decided on 1st February, 1956). The case came up from Jaipur, and by reference to the revenue laws of the former Jaipur State, which were then in force, it was held that Khasra Girdawari was an annual register, and the law laid down a presumption that the entries made therein were true.*"

42. Similarly, in the case of **Abdul Hameed Khan (supra)**, 'Khasra Girdawari' was considered to be an annual register and in Para-4 following observations were given:-

> "*The point as to whether entry in the khasra girdawari under revenue laws of former Jaipur State was a proof of its correctness or not?, came up for consideration in Mala vs. Board of Revenue (DBC Writ Petition No. 185/1953, decided on February 1,1955). It was held that Khasra Girdawari was an annual register as per the revenue laws of former Jaipur State which were then in force, and the law down a presumption that the entries made therein were true.*"

43. In a subsequent judgment delivered by this Court in the case of **Mor Mukut Singh (supra)**, after considering Division Bench judgment of this Court, again the similar proposition was reiterated that Khasra Girdawari at the relevant time was considered as an annual register, raising presumption of correctness of entries made therein. Para-25 of the above judgment is quoted as hereunder:-

> "*A division bench of this court in Mala Vs. Board of Revenue - Writ Petition No. 185/1953, decided vide judgment dated 01.02.1956, in reference to the revenue*

laws of the former Jaipur State, which were then in force, held that 'khasra girdawari' was an annual register, and the law raised a presumption that the entries made therein were true. A coordinate bench of this court in Suraj Mål, supra, held that the girdawari is relevant under Section 35 of the Evidence Act and no formal proof is required by production of the Officer who prepared it. A presumption would arise as to correctness of the document."

44. Similar is the decision laid down by this Court in the case of **Deepa (supra)**, wherein in Para-4 following observations have been made:-

"*Shri Sharma, appearing for the appellant, contended, and rightly. that respondent himself having accepted the appellant as tenant in the first proceeding, a stand different from that could not be taken in the present proceeding. He then urged that Khasra Gridawari, which has now been put on record, clearly shows that the name of the appellant had been recorded as cultivator by Samvat 2012, because of which the land could not be regarded as khudkasht of the Jagirdar which would make Sec. 10 of the Jagirs Act inopera-tive, and so, the respondent's name could not be recorded as khatedar tenant. As to this submission, the learned counsel for this respondent submitted that though the land was shown in the Khasra Gridawari under appellant's cultiva-tion, that was not as a tenant but as an employee of the respondent. This stand is untenable because from the impugned judgment of the Board of Revenue in the present proceeding it appears that the case of this respondent was that Deepa's father had been given the land for cultivation on "Panti Basis", that is, on share basis, which would clearly show that the land was tenanted to Deepa's father and in lieu of cash he was to pay in kind.*"

45. In the case of **State of Rajasthan Vs. Prem Shankar (supra)**, Division Bench of this Court has held that being sub-tenant on the date of commencement of the Act of 1955, the petitioners automatically acquired *khatedari* rights. Para-7 of the judgment is relevant, which is laid down as under:-

"*Section 19 of the Rajasthan Tenancy Act provides the procedure for acquiring khatedari rights. Section 19(1A) was added to remove the difficulties. This is one of the major land reform introduced by the Act to confer khatedari rights on sub-tenants and tenants of Kasht. The* *persons falling in this category acquire the khatedari rights automatically without any step being taken by them. In view of this, the learned Single Judge has committed error in relegating the respondents-writ petitioners to alternate remedy before the competent court. The contention of the appellant for extinguishment of the rights of holding under Section 63 of the Act is wholly misconceived. It has no application to the facts of the case. In view of the continuous possession over the subject land of the writ petitioners prior to year 1946 and they being sub-tenant on the date of commencement of the Rajasthan Tenancy Act, 1955, have automatically acquired khatedari rights.*"

46. In another judgment, in the case of **Niranjan Singh (supra)**, while considering the fact of Section 15 of the Act of 1955, this Court has held that, in case, name of any person was shown as tenant in the Revenue Records prior to enforcement of the Act of 1955, then conferment of *khatedari* rights under the Act of 1955 are automatic by operation of law. Para-31 of the above judgment is relevant and is reproduced hereunder:-

"*1 am unable to agree with the above contention of the learned counsel as Section 15 of the Rajas than Tenancy Act itself makes a distinction between the two classes of persons - one consisting of persons who were tenants of land on the date of the commencement of the Rajasthan Tenancy Act namely, October 15, 1955 and upon whom Khatedari rights are automatically conferred by the aforesaid provision and the other consisting of persons who are to be admitted as tenants after the aforesaid date or who acquire Khatedari rights in accordance with the provisions of the Rajasthan Tenancy Act or the Rajasthan Land Reforms and Resumption of Jagir Act or any other law for the time being in force. In the case of the first category of persons mentioned above they automatically became Khatedar tenants on the coming into force of the Rajasthan Tenancy Act on October 15, 1955 but in the case of the othe r category of persons they have to acquire Khatedari rights on being admitted as tenants after the said date in accordance with the procedure prescribed by the aforesaid Act or they have to acquire Khatedari rights in accordance with any other law as mentioned in Section 15 of the Rajasthan Tenancy Act. In this view of the matter, such persons form two distinct and well-demarcated classes and while the persons in possession of land as tenants on October 15, 1955 have nothing else to do but they automatically become Khatedar tenants with effect from the aforesaid date yet the other class of persons have to acquire Khatedari rights by following certain procedure and in some cases by making certain payments according to the*

> *Rajasthan Tenancy Act or the Rajasthan Land Revenue Act or the Rajasthan Land Reforms and Resumption of Jagirs Act or any other law. Thus it cannot be said that there is no basis for distinction between the aforesaid two classes of persons, rather there is a reasonable basis for the classification of temporary tenants into the aforesaid two different categories and to deal with them differently in the matter of extent of allotment of land as well as the payment of price of land so allotted to them.*"

47. In the instant case, the mutation entries opened in the year 1961 were cancelled by initiating proceedings in the year 1995, which culminated vide order dated 22.05.2002, while dealing with a matter of cancellation of allotment in the case of **Brij Lal (supra)**, the Division Bench of this Court has observed as under:-

> "*It is not disputed before us that the appellant is in cultivating possession of the land since 1970. It would be travesty of justice to dispossess the appellant from the land which he is nourishing for over a period of two decades.*"

48. In the case of **Radha Kishan (supra)**, the Co-ordinate Bench of this Court was dealing with cancellation of allotment under Rule 14(4) of the Rules of 1970, where the allotments were cancelled after lapse of 24 years. The Court observed that although, there is no limitation provided for initiating cancellation provided under the Rules of 1970, yet the power is required to be exercised within a reasonable time and a delay of 24 years in the said case was treated to be an inordinate delay. In the present case in hand, the delay in initiating the proceedings is of around 34 years, therefore, the judgment of **Radha Kishan (supra)**, is also applicable in the facts and circumstances of the present case, where in under Para-15, 17 and 18, following observations have been made:-

"*15. Although it is true that in subsequent division bench judgement of this Court in **Sohan Kanwar v. Board of Revenue & Ors., 2002 (1) WLC (Raj) 415** and Mangla Son of **Hema v. State & Ors., 2007 (1) WLC (Raj) 234**, it has been held that if any allotment has been made on the strength of fraud or misrepresentation, notwithstanding conferment of khatedari rights on completing ten years, the allotment can be cancelled, but here in the present case, it has not been shown as to what fraud was played by the petitioner in securing the allotment. It is not in dispute that the allotment has been made on the recommendation of the Land Advisory Committee, which is headed by SDO and consequential order has been passed by the Tehsildar. The Tehsildar and the Land Advisory Committee were satisfied that land in dispute was in cultivatory possession of the petitioner for almost eight years prior to the date of allotment. They also concluded that on ground no "Nadi" was present and it was a plain land, which was being cultivated by the petitioner. In these facts, this Court does not find any justification for the Collector to entertain the application of cancellation of allotment at the instance of strangers i.e. respondent nos.4 to 6, filed 24 years after the allotment.*

*17. The Larger Bench has also relied on Joint Collector **Ranga Reddy District & Anr. v. D. Narsing Rao & Ors., (2015) 3 SCC 695** wherein it has been held that when no time limit has been prescribed under the Statute for invocation of certain power, such power must be exercised within a reasonable time. If the power is allowed to be exercised after decades, it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties over immovable properties. Absence of any period of limitation does not mean that the power can be exercised at any time, which will make the exercise of power arbitrary and opposed to the concept of Rule of Law. What however shall be the reasonable period, would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors. The Larger Bench even went to the extent of holding that "even if the fraud is alleged, the power must not be exercised after unreasonable period, such as, several decades claiming rights over the land."*

*18. The Supreme Court in **State of Punjab & Ors. v. Bhatinda District Cooperative Milk Producers Union Ltd.**, supra dealing with a question of delay held that although no period of limitation has been prescribed by Section 21 of the Punjab General Sales Tax Act, 1948, but the same would not mean that suo motu power can be exercised by the competent authority at any time. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period, would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.*"

49. In a judgment delivered by the Full Bench of this Court in **Tara (supra)**, in Para-48 while answering to the reference with regard to limitation of taking action under Section 82 of the Rajasthan Land Revenue Act, 1956 and Section 232 of the Rajasthan Tenancy Act, 1955, it was observed by Full Bench that although, there is no limitation prescribed under the law, yet the action cannot be taken after a lapse of unreasonable period.

50. It has been informed to this Court, that although the judgment of Full Bench in the case of **Tara (supra)**, is under challenge before the Hon'ble Supreme Court, yet the operation of the judgment has not been stayed and only order of *status quo* has been passed.

51. In a similar matter, arising out of revenue laws of the State of Maharashtra in the cases, where no limitation for taking action is provided, the Hon'ble Supreme Court in the case of **Santoshkumar Shivgonda Patil (supra)**, has held that power even in such cases, where no time limit is prescribed, is to be exercised within a reasonable period, which was held to be period of three years.

52. In the light of aforesaid consistent judgments, the action of the petitioners cannot be said to be reasonable and justified. There is one another angle as to whether the *Khatedari* rights, which were conferred automatically by operation of law by virtue of Section 15 and 19 of the Act of 1955, can be cancelled in exercise of Rule 14(4) of the Rules of 1970. This Court finds that the Rules of 1970 are applicable only in respect of allotment, which are governed either by the Rules of 1970 or the repealed Rules of 1957 in the cases, where allotment has been made for

gair-khatedari rights. In the cases like the present one, where respondent- Madan Lal was already entered as tenant in the Khasra Girdawari of former Jaipur State, prior to enforcement of the Act of 1955, this Court finds that Rules of 1970 including Rule 14(4) of the said Rules are not applicable. Therefore, mutation entry in order to confer k*hatedari* rights upon respondent- Madan Lal under Section 15 could not have been cancelled, after so many decades, while exercising powers under the Rules of 1970 vide order dated 22.05.2002.

53. As regards, contention of learned counsel for the petitioner that at the relevant time, Additional District Collector-III while passing order dated 22.05.2002 exercised powers of Land Record Officer, therefore, appeal could not have been maintained by the respondent- Madan Lal before the Revenue Appellate Authority, as it was otherwise maintainable before Divisional Commissioner, this Court finds that such contention is totally misconceived and unfounded. It has not been disputed that order dated 22.05.2002 was passed by the Additional District Collector in a case registered under Rule 14(4) of the Rules of 1970, and appeals in ordinary course against an order passed under Rule 14(4) of the Rules of 1970, are very much maintainable before the Revenue Appellate Authority, hence, no infirmity or illegality has been committed by entertaining appeal by the Revenue Appellate Authority.

54. This Court also finds that no such objection whatsoever was raised by the petitioner before the Revenue Appellate Authority. Rather without raising any objection, the petitioner-State consciously participated in the appeal proceedings before

the Revenue Appellate Authority, hence, at this stage or even at the stage of appeal before the Board of Revenue, such plea could not have been raised. Judgment in the case of **Harshad Chimanlal Modi (supra)**, as relied upon by learned AAG, deals with altogether different question relating to lack of territorial jurisdiction and the facts are also entirely different, hence, is not applicable in the present case.

55. This Court also finds that without applying any independent mind, the State Authorities have acted upon dotted lines drawn by the recommendation of Beri Commission. It is settled proposition of law that anything observed by the Commission, unless backed by statutory provisions, is considered to be only a recommendation in nature, and such recommendations are required to be examined by the competent authority strictly in accordance with law. In the instant case, this Court finds that the procedure provisions of law have not been properly exercised by the State Authorities.

56. Viewing from any angle, on the basis of aforesaid discussion, and examination of record, this Court finds that the Revenue Appellate Authority and the Board of Revenue have not committed any manifest jurisdictional error or illegality, therefore, there is no scope of interference in the instant writ petition filed by the petitioner, and the same is hereby dismissed.

57. Pending application(s), if any, also stand(s) disposed of.

(ANAND SHARMA),J

145/DIVYA