

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 13109/2025
CNR: RJHC020690582025 | URN: CW / 29545U / 2025

Amin Son Of Kallu, Aged About 55 Years, Resident of Rambhana,
Tehsil Tapukda, District Khairthal Tijara.

-----Petitioner

Versus

1. Husain Mal Adopted Son Of Khunti @ Kapura, Resident Of Rambhaan, Tehsil Tapukda, District Khirthal Tijara.
2. State of Rajasthan, Through Tehisildar Tijara, District Khairthal Tijara.
3. Chandgi Son of Doliram, Resident Of Khidarpur, Tehsil Tapukda, District Khairthal Tijara.
4. Aas Mohammed Son of Firoj, Resident Of Rambhana, Tehsil Tapukda, District Khairthal Tijara
5. Israyal Son of Hos Khan, Resident Of Rambhana, Tehsil Tapukda, District Khairthal Tijara
6. Islam Son of Hos Khan, Resident Of Rambhana, Tehsil Tapukda, District Khairthal Tijara
7. Mohammed Hanif Son of Chhote Khan, Resident Of Rambhana, Tehsil Tapukda, District Khairthal Tijara
8. Ayub Son Kallu, Resident Of Rambhana, Tehsil Tapukda, District Khairthal Tijara

-----Respondents

For Petitioner(s)	:	Mr. Amitabh Jatav
For Respondent(s)	:	Mr. Rahul Tiwari Mr. Umesh Choudhary for Mr. V.D.Gathala-Addl.G.C.

JUSTICE ANOOP KUMAR DHAND

Order

09/09/2026

1. The instant writ petition has been preferred against the impugned order dated 10.07.2025, passed by the Board of

Revenue, Ajmer (for short, 'the Board') by which the revision petition submitted by the petitioner along with the respondent Nos. 3 to 8 against the order dated 18.07.2024 passed by the Sub Divisional Officer, Tapukada (for short, 'the SDO') has been rejected. While passing the impugned order dated 18.07.2024, the SDO has rejected the application submitted by the petitioner under Order 7 Rule 11 CPC.

2. Counsel for the petitioner submits that the subject land is a custodial property for which a suit for declaration has been filed by the plaintiff -respondent No. 1 before the Court of SDO. Since the jurisdiction of the Court is barred under Section 46 of the Administration of Evacuee Property Act, 1950 (for short, 'the Act of 1950') the suit itself was barred, hence, the Court below did not have any jurisdiction to entertain the same. Hence the application under Order 7 Rule 11 CPC was submitted by the petitioner for rejection of the plaint. Counsel submits that aforesaid application has not only been heard by the SDO, but also by the Board. Since the Court of SDO is not having any jurisdiction to entertain the suit filed by the plaintiff-respondent No.1 in terms of the Section 46 of the Act of 1950, the suit is liable to be rejected.

3. This Court has perused the impugned orders passed by the Courts below which clearly indicates that the nature of the subject property has been recorded as revenue record and not as custodial property. Varying versions and cross versions have been raised by the rival sides with regard to the nature of the property for which a suit has also been submitted before the SDO.

4. This fact is admitted on the record that the subject property is a custodial property. This disputed question of fact cannot be

adjudicated at the initial stage. For that purpose, the evidence of both sides is required to be recorded.

5. In the considered opinion of this Court, the Courts below have not committed any error in rejecting the application submitted by the petitioner under Order 7 Rule 11 CPC.

6. This Court finds no error in the impugned orders passed by both the Courts below and the instant petition is found to be devoid of merit and the same is liable to be and is hereby dismissed.

7. Accordingly, the instant petition stands dismissed. Stay application and all pending application(s), if any, also stand dismissed.

(ANOOP KUMAR DHAND),J