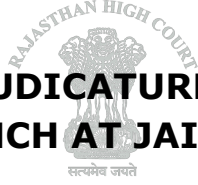


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 13422/2025

CNR: RJHC020695962025 | URN: CW / 30232U / 2025

The Sanganer Cooperative Housing Society Limited, Through
Authorized Representative Shri Govind Khandelwal S/o Late
Nathu Lal Gupta, Resident Of 90, Arjun Nagar, Durgapura, Jaipur.

-----Petitioner

Versus

1. Jitendra S/o Shri Kailash, Resident Of Kundanpura Alias Jaipura, Tehsil Sanganer, District Jaipur
2. Raj Kumar Alias Yuvraj S/o Shri Kailash, Resident Of Kundanpura Alias Jaipura, Tehsil Sanganer, District Jaipur
3. Prabhu S/o Shri Hardev, Resident Of Kundanpura Alias Jaipura, Tehsil Sanganer, District Jaipur
4. Suraj Mal S/o Shri Hardev, Resident Of Kundanpura Alias Jaipura, Tehsil Sanganer, District Jaipur
5. Jaipur Development Authority, Jaipur, Through Secretary, Indira Circle, Jln Marg, Jaipur
6. Birdha Alias Birdhi Chand S/o Pratab, Resident Of Tiwari Nagar, Madrampura, Behind Ioc Petrol Pump, Diggi Road, Sanganer, Tehsil Sanganer, District Jaipur (Deceased)
7. Ram Nath S/o Pratab, Resident Of Khatipura Colony, Sejpura, Near Ramdev Mandir, Jhotwara, District Jaipur (Deceased).
8. Smt. Bhuri Devi D/o Late Shri Gopi W/o Shri Lala, Resident Of Plot No. 139, Avadhpuri Colony, Jhotwara, Jaipur.
9. Smt. Prem Devi W/o Shri Kajor Mal D/o Shri Gopi Ram, Resident Of Balaiyon Ka Mohalla, Near Durgamata Mandir, Durgapura, Tonk Road, Jaipur.
10. Smt. Suji W/o Laxmi Narain D/o Gopi Ram, Resident Of Gram Mundala, Tehsil Bassi, District Jaipur.
11. Smt. Dhapu W/o Kalu D/o Gopi Ram, Resident Of Gram Bapugaon, Tehsil Chaksu, District Jaipur
12. Smt. Munni Alias Manju W/o Babu Lal D/o Gopi Ram, Resident Of Balaiyon Ki Basti, 101 Ganesh Nagar, Behind Ganeshji Mandir, Moti Dungari, Jaipur.
13. Smt. Raja W/o Mohan D/o Gopi Ram, Resident Of Balai Colony, Opp. Sanganer Airport Near Maheshwari Public School, Sanganer, Tehsil Sanganer, District Jaipur.
14. State Of Rajasthan, Through Tehsildar, Tehsil Sanganer, District Jaipur.

-----Respondents

For Petitioner(s) : Mr. Bajrang Lal Choudhary, Adv.
For Respondent(s) : Mr. R. K. Agarwal, Senior Counsel
with Mr. Adhiraj Modi, Adv.,
Mr. Abhishek Pareek, Adv.
Mr. Amit Kuri, Adv.
Mr. V. D. Gathala, AGC with
Ms. Vijay Laxmi, Adv.

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

04/08/2026

1. By way of filing the present writ petition, the petitioners have invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India assailing the orders dated 08.01.2024 and 03.06.2024 passed by the Divisional Commissioner, Jaipur in Appeal No.73/2023 and the order dated 22.07.2025 passed by the Board of Revenue, Ajmer in Revision Petition. The petitioners have also questioned the orders passed by the Sub-Divisional Officer, Sanganer under Section 136 of the Rajasthan Land Revenue Act, 1956 (hereinafter referred to as "the Act of 1956") whereby the revenue entries in respect of the land in question were altered.

2. The controversy relates to land comprised in Khasra Nos.379/396, 380, 385, 386, 391 and 392, situated at Village Jhujharpura @ Mendala, Tehsil Sanganer, District Jaipur, measuring approximately 2.06 hectares. The land was originally recorded in the names of the concerned Khatedars and their predecessors.

3. According to the case of the petitioner, the original Khatedars Gopi, Birdha and Ramnath had, during the years 1997

and 1998, executed agreements to sale qua their 1/4th share in land in question in favour of petitioner-housing cooperative society and had parted with possession of the agricultural land for the purpose of its development into residential plots. It is stated that the land was thereafter subjected to non-agricultural use and residential schemes, namely, "Balram Nagar" and "Ganga Vihar", were developed thereon.

4. On 06.11.2006, the Tehsildar, Zone-9, JDA submitted an application before the Authorized Officer under Section 90-B(1) of the Act of 1956, seeking resumption of the land. Proceedings were thereafter initiated under Section 90-B of the Act. Earlier orders dated 19.06.2009 and 18.02.2011 came to be passed in the proceedings. The matter was subsequently remanded by the Divisional Commissioner on 25.04.2016 in an appeal preferred by the legal representative of one of the concerned Khatedars, with a direction to consider the matter after affording opportunity of hearing to the affected parties.

5. Pursuant to the remand, notices were issued and public notice was also published. After considering the material available on record, including the agreements, surrender documents, site report and revenue record, the Authorized Officer, Zone-9, JDA passed a detailed order dated 03.11.2017 under Section 90-B(1) read with Section 90-B(5) of the Act of 1956. By the said order, the Khatedari rights in respect of the entire land measuring 2.06 hectares were terminated and the land was ordered to be resumed in favour of JDA, free from all encumbrances. The Tehsildar was

directed to delete the names of the Khatedars from the Jamabandi and record the name of JDA.

6. The said order dated 03.11.2017 was not challenged by way of an appeal within the statutory period. It is not in dispute that the private respondents subsequently preferred Appeal No.73/2023 before the Divisional Commissioner questioning the resumption order dated 03.11.2017. The appeal was thus instituted on 13.02.2023 after a lapse of more than six years from the date of the order under Section 90-B. The petitioner asserts that two of the persons shown as respondents in the appeal namely Birdha and Ramnath had already died before institution of the appeal, yet they were impleaded as parties and notices were allegedly shown to have been served upon dead persons by affixation.

7. During the intervening period, JDA proceeded with steps concerning the land and, according to petitioner's case, issued a public advertisement dated 04.10.2022 inviting objections and applications for regularisation/allotment of lease deeds in respect of the plots situated in the concerned schemes.

8. The private respondents also pursued proceedings before the revenue authorities. Proceedings under Section 136 of the Act of 1956 were decided by the Sub-Divisional Officer, Sanganer after a substantial lapse of time, and orders dated 26.10.2023 and 13.12.2023 were passed resulting in deletion of the name of JDA from the revenue record and restoration of the names of the original Khatedars.

9. The Divisional Commissioner thereafter dealt with Appeal No.73/2023 and passed orders dated 08.01.2024 by drawing ex-parte proceedings against the dead persons. The petitioner filed application for setting aside ex-parte decision dated 08.01.2024, however, the same was also dismissed by the Divisional Commissioner without knowledge of the petitioner on 08.02.2024. Feeling aggrieved the petitioner filed S.B. Civil Writ Petition No.3835/2024 before this Court, which was allowed vide order dated 04.04.2024 and order passed by Divisional Commissioner was quashed and matter was remanded back. However, again the application filed by the petitioner was dismissed on 03.06.2024. The matter ultimately reached the Board of Revenue, Ajmer, which, by order dated 22.07.2025 passed in Revision Petition No.LR/4246/2024, declined to interfere. Aggrieved by the aforesaid orders, the present writ petition has been filed.

10. Whereas while opposing the writ petition, the respondents no. 1 to 4 have supported the orders passed by the revenue authorities. Their principal contention is that the resumption proceedings under Section 90-B were not validly concluded against all the affected parties and that the concerned Khatedars and their legal representatives continued to have rights in the land. It has also been contended that the agreements relied upon by JDA in 90-B proceedings did not validly transfer title, and the revenue authorities were justified in examining the claim of the parties.

11. It has further been submitted that the proceedings under Section 136 of the Act of 1956 were competent and that the revenue entries could legitimately be corrected on the basis of the actual legal status of the land. According to the private respondents, therefore, no interference is called for with the orders passed by the Divisional Commissioner and the Board of Revenue.

12. Shri Bajrang Lal Choudhary, learned counsel appearing for the petitioner submitted that the impugned orders cannot be sustained because the very foundation of the order dated 08.01.2024 is procedurally defective. It was argued that the appeal under Section 90-B(7) was instituted after a substantial delay of six years against the order dated 03.11.2017, whereas the statutory provision prescribed a period of thirty days for filing such an appeal. The application for condonation of delay, therefore, was required to be considered meticulously and a reasoned order was required to be passed thereupon. However, the application for condonation was dealt with in cursory manner by the Appellate Authority.

13. Learned counsel further submitted that the respondents had participated in earlier proceedings concerning the very same land, including proceedings before the Divisional Commissioner and the revenue Court, and consequently their plea that they acquired knowledge of the order dated 03.11.2017 only in January, 2023 was itself a matter requiring adjudication. It was urged that the question of limitation could not have been brushed

aside without examining the earlier proceedings and the material placed on record.

14. Learned counsel for the petitioner also contended that the order dated 08.01.2024 was passed without affording an effective opportunity of hearing to the petitioner, despite the fact that the order directly affected the scheme developed by the petitioner and the rights and interests of its members. It was submitted that two of the persons impleaded in the appeal had already died before its institution and yet notices were purportedly served upon them by affixation. Such proceedings being nullity, could not form the basis of an adjudication affecting valuable rights in immovable property. Learned Counsel for the petitioner relied upon several judgments delivered in the cases of **The Koushik Mutually Aided Cooperative Housing Society Vs Ammena Begum & Anr., 2023 SCC OnLine SC 1662, Ram Prakash Agarwal & Anr V/s Gopi Krishan Agrawal & Anr, 2013 (5) Scale 670, Rabindra Singh V/s Financial Commissioner, Cooproration, Punjab & Ors., 2008(7) SCC 663, Lal Devi & Anr V/s Vaneeta Jain & Ors. (2007) 7 SCC 200, Sarman Singh V/s Kishan Singh (dead) thr. Lrs. and Ors., (2007) 13 SCC 574, B. Janakiramaiah Chetty V/s Parthasarathi & Ors. (2003) 5 SCC 641, Union of India V/s Manager, M/s. Jain & Associates, (2001) 3 SCC 277 and State of M.P. V/s Babu Lal & Ors., (1977) 2 SCC 435.**

15. Shri R. K. Agrawal, learned Senior Counsel appearing for the private respondents opposed the writ petition and submitted that the same is misconceived, as the impugned orders

passed by the Divisional Commissioner and the Board of Revenue are reasoned orders passed after affording due opportunity of hearing and do not suffer from any jurisdictional error or perversity warranting interference under Article 226/227 of the Constitution.

16. It was submitted that the private respondents derived their title over the land in question through the registered sale deed dated 18.08.1989/19.08.1989 executed by the recorded holders including Smt. Ganga, hence, the mutation proceedings thereafter ought to have correctly reflected the names of the purchasers. The continued recording of the name of Smt. Ganga, despite the registered conveyance of the land in favour of private respondents, was only an erroneous mutation entry. Her subsequent death could not confer any right upon her sons, namely Gopi, Birdha and Ramnath, who had already parted with their interest. It was contended that the subsequent agreement/sale in favour of petitioner-Sanganer Cooperative Housing Society by sons of Ganga, who had no subsisting right or title could not adversely affect the rights acquired by the private respondents under the earlier registered sale deed.

17. Learned Senior Counsel further submitted that mutation entries are fiscal in nature and neither create nor extinguish title. Therefore, any error in the mutation proceedings could not defeat the title flowing from a registered instrument. Reliance was placed upon **Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186; Sawarni v. Inder Kaur, (1996) 6 SCC 223;** and **State of H.P. v. Keshav Ram,**

(1996) 11 SCC 257. It was urged that, having already conveyed the land, the vendors could not subsequently transfer any better title in favour of the Society, in view of the settled principle that no person can convey a better title than what he himself possesses. Reliance was also placed upon **Hardev Singh v. Gurmail Singh, (2007) 2 SCC 404** and **State of Rajasthan v. Basant Nahata, (2005) 12 SCC 77.**

18. On the question of limitation, learned Senior Counsel submitted that the delay in preferring the appeal was duly explained and an application under Section 5 of the Limitation Act was considered by the Appellate Authority after issuing notice and hearing the parties. The satisfaction recorded while condoning the delay was a discretionary judicial exercise and, in absence of any apparent perversity or arbitrariness, is not open to interference in writ jurisdiction. Reliance was placed upon **Collector, Land Acquisition v. Mst. Katiji, (1987) 2 SCC 107; State of Nagaland v. Lipok Ao, (2005) 3 SCC 752; N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123** and **Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649.**

19. It was lastly submitted that, pursuant to the order of remand passed by this Court, the Divisional Commissioner reconsidered the matter and passed the order dated 03.06.2024, which was thereafter affirmed by the Board of Revenue vide order dated 22.07.2025. The concurrent findings recorded by the authorities could not be re-appreciated in exercise of the limited supervisory jurisdiction under Article 226/227 of the Constitution,

particularly when no jurisdictional error, perversity or violation of principles of natural justice had been demonstrated. Reliance was placed upon **Radhey Shyam v. Chhabi Nath, (2015) 5 SCC 423** and **Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329**. Learned Senior Counsel, therefore, prayed for dismissal of the writ petition.

20. Shri Amit Kuri, learned counsel appearing for respondent No.5-Jaipur Development Authority (JDA), submitted written arguments in detail in addition to the oral arguments, wherein while supporting the original resumption proceedings, submitted that the entire scheme of Section 90-B of the Act of 1956 was enacted to deal with cases where agricultural land situated within notified urbanisable limits is put to non-agricultural use or possession thereof is parted with for such purpose. According to learned counsel, Section 90-B(1) specifically contemplates a situation where the holder of agricultural land uses or permits its use for non-agricultural purposes or parts with possession by way of sale, agreement to sell, power of attorney or in any other manner for purported non-agricultural use.

21. It was submitted that in the present case the original Khatedars had admittedly entered into agreements with housing cooperative societies and had parted with possession of the land for the purpose of residential plotting. The land was thereafter developed into residential schemes. Thus, according to JDA, the very foundation for initiating proceedings under Section 90-B(1) existed and the Authorized Officer rightly exercised jurisdiction under Section 90-B(5) and ordered resumption of the land.

22. Learned counsel for JDA further argued that the Khatedari rights had independently stood extinguished by operation of law under the provisions of the Rajasthan Tenancy Act, 1955 on account of parting with possession and conversion of agricultural land for unauthorised non-agricultural use. According to JDA, therefore, the original Khatedars or their legal representatives had no subsisting right which could subsequently be restored through proceedings under Section 136 of the Act of 1956.

23. It was also submitted that the agreements to sale relied upon by the private respondents themselves could not confer title in view of Section 54 of the Transfer of Property Act, 1882. Reliance was placed upon the judgment of the Hon'ble Supreme Court in **Suraj Lamp & Industries (P) Ltd. v. State of Haryana, (2012) 1 SCC 656**. However, learned counsel submitted that the relevance of the agreements, for the purposes of Section 90-B, was not their capacity to convey title, but the fact that they demonstrated parting with possession of agricultural land for an unauthorised non-agricultural purpose.

24. The principal submission of learned counsel for JDA, however, was with regard to limitation. It was contended that the order dated 03.11.2017 passed under Section 90-B(5) could be challenged by an aggrieved person only within thirty days in terms of Section 90-B(7) of the Act of 1956. It was submitted that the appeal filed in the year 2023, after more than six years, was grossly barred by limitation.

25. According to learned counsel, Sections 75 and 78 read with Section 214 of the Act of 1956 make the provisions of the Limitation Act, 1963 applicable to proceedings before the revenue authorities. Consequently, an application for condonation of delay could succeed only upon the appellant establishing sufficient cause for the entire period of delay. Reliance was placed upon the decisions of the Hon'ble Supreme Court in **State of Madhya Pradesh v. Bherulal, (2020) 10 SCC 654** and **Basawaraj v. Special Land Acquisition Officer, (2013) 14 SCC 81**.

26. Learned counsel submitted that the delay of more than six years, involving more than 2000 days, could not have been lightly overlooked, particularly when no satisfactory explanation for the delay was furnished and valuable rights had accrued in favour of JDA and third parties during the intervening period. It was argued that the Divisional Commissioner could not have entertained the appeal on merits without analysing the reasons assigned in detail and in absence of logical and reasoned order condoning the delay. But in this matter delay of six years was condoned by Appellate Authority in mechanical manner.

27. It was further argued that the orders passed by the Sub-Divisional Officer under Section 136 of the Act of 1956 were wholly without jurisdiction. According to JDA, Section 136 is confined to correction of revenue entries and cannot be invoked to nullify a substantive order of resumption passed under Section 90-B or to adjudicate upon title to land already resumed and vested in the State/JDA.

28. Learned counsel for JDA further submitted that the revenue suit filed by the concerned Khatedars for declaration of their rights had also been dismissed on 13.03.2019 and that the subsequent attempts to reopen the issue through proceedings under Section 136 or through a belated appeal amounted to an impermissible attempt to circumvent the finality of the resumption order. Reliance was also placed upon **State of Rajasthan & Ors. v. Gurcharan Singh, (1999) 5 SCC 645** and **Gajendra Singh v. Divisional Commissioner, Jodhpur & Ors., 2017 (2) WLN 349 (Raj.)**, to contend that once land is resumed under Section 90-B and placed at the disposal of the concerned urban development authority, the agricultural tenancy/Khatedari rights stand extinguished and the revenue authorities cannot subsequently undo such vesting. On the aforesaid basis, learned counsel submitted that the orders passed by the Sub-Divisional Officer, the Divisional Commissioner and the Board of Revenue were without jurisdiction and liable to be quashed. It was prayed that the order dated 03.11.2017 passed by the Authorized Officer be upheld and the revenue record be restored in favour of JDA.

29. Having considered the submissions advanced by learned counsel for the parties, this Court finds that, before entering into the rival claims regarding the validity of the agreements, alleged parting with possession, extinction of Khatedari rights, vesting of the land in JDA and the correctness of the order dated 03.11.2017 on merits, the legality of entertaining Appeal No.73/2023 itself requires consideration.

30. The issue of limitation is not merely a procedural objection in the facts of the present case. The statutory scheme of Section 90-B expressly provides a period of thirty days for an aggrieved person to challenge an order passed under Section 90-B(5). The order dated 03.11.2017 was passed after remand and after the Authorized Officer claims to have afforded opportunity of hearing and considered the material available on record. The appeal against the said order was nevertheless filed only in the year 2023.

31. Thus, there was a delay of more than six years in invoking the statutory appellate remedy. The question whether such delay could legally be condoned, and if so, whether sufficient cause was established for the entire period of delay, was therefore required to be considered extensively and comprehensively before entertaining the appeal on merits.

32. At the same time, the question whether the delay deserves to be condoned is required to be decided by the Appellate Authority carefully and not randomly in routine manner. The Court exercising writ jurisdiction would ordinarily not undertake, in the first instance, the factual exercise of determining whether the explanation furnished by an appellant constitutes sufficient cause for the entire period of delay, particularly where such question has not been properly considered by the statutory appellate authority.

33. The submission of the petitioner and JDA that an appeal filed after more than six years cannot simply be entertained on merits without a speaking and well reasoned order condoning the

delay, is substantially well founded. The appellate authority is required to first judiciously determine whether the delay deserves to be condoned in accordance with law.

34. This Court is also not persuaded by request made by learned counsel for the private respondents to finally adjudicate at this stage the competing claims regarding the agreements to sell, surrender documents, alleged parting with possession, validity of the residential schemes, extinction of Khatedari rights or correction of entries under the Rajasthan Tenancy Act, 1955, or the ultimate effect of Section 90-B of the Act of 1956. These issues have a direct bearing upon the merits of the appeal and ought to be examined by the statutory appellate authority after properly deciding the question of limitation by a reasoned and speaking order.

35. The orders impugned before this Court do not satisfactorily demonstrate that the question of limitation, having regard to the statutory period of thirty days and the extraordinary delay of more than six years, was dealt with in proper and exhaustive manner required by law before the appeal was entertained and decided on merits.

36. In these circumstances, this Court considers it appropriate to exercise its jurisdiction under Article 226/227 of the Constitution, not for finally determining the rival title claims or the validity of the resumption proceedings, but for ensuring that the statutory appellate remedy is exercised strictly in accordance with the governing provisions of law.

37. Assertion of the petitioner that two of the persons shown as respondents in the appeal had already died before institution of the appeal, yet they were impleaded as parties and notices were allegedly shown to have been served upon them by affixation, is also a significant factor, which is also required to be examined afresh by the Appellate authority. It is further clarified that while undertaking such exercise, the Divisional Commissioner shall ensure that all persons who are necessary and proper parties, including the legal representatives of deceased parties, are duly served and afforded an effective opportunity of hearing. No party shall be prejudiced merely on account of any earlier defect in service or opportunity.

38. The observations made herein are confined to the question of limitation, jurisdiction and procedural legality. This Court has deliberately refrained from expressing any final opinion on the competing claims of title or Khatedari rights. All such issues are left open for consideration by the competent authority in accordance with law.

39. Consequently, the orders dated 08.01.2024 and 03.06.2024 passed by the Divisional Commissioner, Jaipur in Appeal No.73/2023, as well as the order dated 22.07.2025 passed by the Board of Revenue, Ajmer in Revision Petition, cannot be sustained in their present form. The matter requires reconsideration from the stage at which the statutory question of limitation was required to be addressed judiciously by a reasoned and speaking order.

40. Accordingly, the present writ petition is allowed in part. The order dated 22.07.2025 passed by the Board of Revenue, Ajmer in Revision Petition and the orders dated 08.01.2024 and 03.06.2024 passed by the Divisional Commissioner, Jaipur in Appeal No.73/2023 are hereby quashed and set aside.

41. Appeal No.73/2023 is restored to the file of the Divisional Commissioner, Jaipur. The Divisional Commissioner shall first consider and decide, by a reasoned and speaking order, the question of limitation and the application, if any, seeking condonation of delay.

42. In case the delay is condoned, the Divisional Commissioner shall thereafter decide the appeal on merits after affording proper and effective opportunity of hearing to all concerned parties, including the duly impleaded legal representatives of deceased parties. In case the delay is not condoned, the appeal shall be dealt with in accordance with law.

43. The orders passed by the Sub-Divisional Officer, Sanganer under Section 136 of the Act of 1956, including the orders dated 26.10.2023 and 13.12.2023, shall abide by the final outcome of the aforesaid proceedings. The revenue authorities shall accordingly maintain the revenue record in accordance with the orders passed in the proceedings and shall not take any irreversible action during the pendency of the remanded proceedings.

44. Since the dispute is pending for a considerable period, the Divisional Commissioner, Jaipur is expected to undertake the aforesaid exercise expeditiously and, preferably, within a period of

three months from the date of receipt of a certified copy of this order.

45. The writ petition stands disposed of in the aforesaid terms.

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

(ANAND SHARMA),J