HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 17225/2025

CNR: RJHC020939382025 | URN: CW / 39152U / 2025

1. Aryan S/o Shri Subhash, Grand Son Ramkaran Gurjar, Aged About 10 Years,
2. Nisha D/o Shri Subhash Grand-Daughter Ramkaran Gurjar, Aged About 12 Years,
   Both Are Minor Through Their Natural Guardian Father Subhash S/o Ramkaran Gurjar R/o Village Babedi, Tehsil Bansur, District Kotputli, Behror.

----Petitioners/Plaintiffs

Versus

1. Ramkaran S/o Late Shri Prahlad Gurjar
2. Bimla Devi W/o Shri Ramkaran Gurjar,
   Both are R/o Village Babedi, Tehsil Bansur, District Kotputli, Behror

---Respondents/Defendants

3. Subhash S/o Shri Ramkaran Gurjar, R/o Village Babedi, Tehsil Bansur, District Kotputli-Behror (Raj).
4. Vikram S/o Shri Ramkaran Gurjar, R/o Babedi, Tehsil Bansur, District Kotputli-Behror (Raj).
5. Tehsildar- Landholder, Bansur.
6. Sub-Registrar Bansur, Tehsil Bansur, District Kotputli, Behror (Raj).

----Proforma Respondents/Defendants

For Petitioner(s)	:	Mr. Ankit Sharma
For Respondent(s)	:	Mr. Atul Sharma Mr. Ravindra Paliwal

HON'BLE MR. JUSTICE ANAND SHARMA

Order

12/08/2026

1. Although, the writ petition has come up on application for stay vacation filed by the respondents however, with the

consent of learned counsel for the parties, the writ petition itself is being decided finally.

2. It is stated in the writ petition that petitioners filed a suit under Section 88, 89 and 188 of Rajasthan Tenancy Act, 1955 (for short the 'Act of 1955') for declaration of permanent injunction against the private respondents along with application for temporary injunction. Despite service, nobody was present on behalf of private-respondents, hence, *ex parte* proceedings were drawn and thereafter, application under Section 212 of the Act of 1955 for temporary injunction was accepted vide order dated 16.08.2024 whereby parties are directed to maintain *status quo* qua site position and record as well as not to create any third party rights.

3. It is submitted that after lapse of more than one year, the private-respondents filed appeal before the Revenue Appellate Authority on 29.08.2025. On the same day, the appeal was taken up by Revenue Appellate Authority and without even considering the question of delay occurred in filing of appeal, an *ex parte* order dated 29.08.2025 was passed whereby, order dated 16.08.2024 passed by Assistant Collector, Bansur was stayed.

4. Learned counsel submits that the provisions of CPC although not strictly applicable in revenue suits and proceedings, yet such provisions have got a guiding force and as per Order 41 Rule 3 of CPC, without condoning delay, no effective order can be passed. Thus, the Revenue Appellate Authority has committed serious error of jurisdiction and law in passing *ex parte* order dated 29.08.2025.

5. Learned counsel for the respondents opposed the writ petition and submitted that order dated 29.08.2025 can be challenged by the petitioners by way of filing revision petition before the Board of Revenue, yet instead of filing revision petition, the petitioners erroneously invoked writ jurisdiction of this Court. Even otherwise, the order impugned being an *ex parte* order, the petitioners have got remedy to oppose the appeal filed by the private-respondent by appearing before the Revenue Appellate Authority, therefore, without filing any objections before Revenue Appellate Authority, the writ petition filed by the petitioners is not maintainable and is liable to be rejected.

6. Heard learned counsel for the parties and perused the record.

7. At the first place, this Court finds that the objection raised by learned counsel for the private-respondent that revision petition can be maintained by the petitioners against the order dated 29.08.2025 is wholly misconceived for the reason that revision petition under Section 230 of the Act of 1955 can be maintained only against the final decision and not against an interim *ex parte* order, therefore, petitioners have committed no mistake in invoking writ jurisdiction of this Court by way of filing the present writ petition.

8. It has not been disputed by learned counsel for the respondents that no order whatsoever has been passed by the Revenue Appellate Authority over the question of delay in filing the appeal against the order dated 16.08.2024 and without condoning the delay, interim order dated 29.08.2025 suffers from serious illegality as the same has been passed in violation of Order

41 Rule 3 of CPC. In the present case, where there was long delay in approaching the Appellate Authority, it was incumbent upon the Appellate Authority to pass appropriate order on application under Section 5 of the Limitation Act filed by the private-respondent, which has admittedly not been done in the present case.

9. For the reasons mentioned hereinabove, this Court finds that this is a fit case for interference in the writ jurisdiction. Order dated 29.08.2025 passed by Revenue Appellate Authority is hereby quashed and set-aside. The matter is remanded back to Revenue Appellate Authority with directions to decide the appeal, by firstly adjudicating the issue of delay in filing the appeal after affording due opportunity of hearing to both the parties and to proceed with the appeal only after deciding the application for condonation of delay.

10. Both the parties are directed to appear before the Revenue Appellate Authority on 01.09.2026.

11. In view of the fact that the appeal filed by the private-respondent is only against the application for grant of temporary injunction, this Court deems it just and proper to direct the Revenue Appellate Authority to decide the appeal expeditiously and preferably within a period of 6 months from the date of receipt of certified copy of this order.

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

(ANAND SHARMA),J

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