

तारीख हुक्म	हुक्म या कार्यवाही मय इनिशियल्स जज Revision No.1981/2012/Colo/Jaisalmer Rajaram Vs. Hakim Khan	नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए
25.6.2012	<p style="text-align: center;"><u>S.B.</u> Shri Pramil Kumar Mathur, Member</p> <p><u>Present:</u> Shri Pradeep Bishnoi, counsel for the petitioner. Shri Sameer Ahmed, counsel for non-petitioner no.1. Shri Mukesh Dadhich, Dy.Govt.Advocate for non-petitioner no.2.</p> <p style="text-align: center;">= = =</p> <p>With the consent of both the parties, heard the rival contentions for final disposal of this case.</p> <p>The learned counsel for the petitioner has submitted that he has filed the appeal against the order passed by the Assistant Commissioner (Colonisation), Mohangarh No.1, District Jaisalmer on 19.12.2011, but learned trial court has ordered to file the appeal in an administrative manner on the sole ground of pendency of appeal before Board of Revenue. He further submitted that judicial proceeding cannot be curbed by the administrative orders. Learned presiding officer has passed the impugned order without applying his judicial mind. Hence, revision be allowed.</p> <p>On the contrary, learned counsel for the non-petitioner no.1 has emphasised that learned trial court has passed the impugned order in a lucid manner which does not warrant any interference. Therefore, revision is liable to be rejected.</p> <p>Learned Dy.Govt.Advocate for the State has requested to decide the matter on merits.</p> <p>I have given my thoughtful consideration to the rival contentions and perused the record.</p> <p>This fact is not in dispute that the order passed by the Assistant Commissioner (Colonisation), Mohangarh No.1, District Jaisalmer dated 19.12.2011 is an appealable order. Impugned order dated 16.02.2012 was manifestly based on the sole ground that petitioner Rajaram has moved an appeal</p>	

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	<p>no.9075/2011 before the Board of Revenue. Therefore, on account of pendency of appeal before Board of Revenue, this appeal cannot travel parallel. This is an indisputable fact that present petitioner Rajaram has filed a revision no.9075/2011 against the order passed by the Additional Commissioner (Colonisation) & Revenue Appellate Authority, Jaisalmer on 15.9.2011 and no appeal on the pleaded facts was pending before the Board of Revenue numbered as 9075/2011. This is also a revealing fact that impugned order dated 16.02.2012 has been passed without affording an opportunity of hearing to the present petitioner which is in flagrant violation of cardinal principle of natural justice. This is surprising and rather shocking that learned Revenue Appellate Authority who is the senior officer of the revenue justice delivery system, has ignored the cardinal principle of "<i>audi alteram partem</i>" and passed the impugned order by taking administrative steps on the proceedings which is purely judicial in nature. Even this principle is fully applicable to administrative proceedings also. Therefore, the revision filed by the present petitioner being full of substance, succeeds and allowed accordingly and impugned order passed by Additional Commissioner (Colonisation) & Revenue Appellate Authority, Jaisalmer dated 16.02.2012 is set aside and the learned subordinate court is directed to decide the appeal on merit expeditiously in accordance with law within three months from the date of receipt of this order. Till then, operation of the order passed by Assistant Commissioner (Colonisation), Mohangarh No.1, District Jaisalmer on 19.12.2011 is stayed.</p> <p>Pronounced.</p> <p style="text-align: right;">(Pramil Kumar Mathur) Member</p>	