

IN THE BOARD OF REVENUE FOR RAJASTHAN, AJMER

REFERENCE NO. 6702/2008/LR/RAJSAMAND

S.B.

Shri Sanuj Kulshrestha, Member

State of Rajasthan through Tehsildar, Relmagra

... Petitioner.

Versus

1. Smt. Mohnibai wife of Pannalal by caste Brahmin resident of Dhaneriya Teh. Relmagra (Deceased)
2. Shri Sawairam adopted child of Pannalal by caste Brahmin resident of Dhaneriya Teh. Relmagra
3. Shri Bherulal son of Kishanlal by caste Brahmin resident of Dhaneriya Teh. Relmagra (Deceased) through LRs
 1. Smt. Manjudevi wife of Dinesh Parashar resident of R.K. Colony, C-59 Bhilwara.
 2. Smt. Hemadevi wife of Jagdish Parashar resident of Sawariya pasti bhandar Nikol road char rasta Bapunagar, dukan No. 499 Ahmedabad
 3. Shri Vishnu son of Bherulal Parashar resident of Dhaneriya Tehsil Relmagra
 4. Shri Anil son of Bherulal Parashar resident of Dhaneriya Tehsil Relmagra
 5. Smt. Sitadevi wife of Bherulal Parashar resident of Dhaneriya Tehsil Relmagra
4. Smt. Rukman daughter of Kishanlal by caste Brahmin resident of Dhaneriya Tehsil Relmagra
5. Smt. Kamla daughter of Kishanlal by caste Brahmin resident of Dhaneriya Tehsil Relmagra
6. Smt. Mohnibai wife of Kishanlal by caste Brahmin resident of Dhaneriya Tehsil Relmagra
7. Shri Rameshwar Lal son of Ramchandra by caste Mahajan resident of Dhaneriya Tehsil Relmagra
8. Shri Nandlal son of Ramchandra by caste Mahajan resident of Dhaneriya Tehsil Relmagra
9. Smt. Geeta Devi wife of Ramchandra by caste Mahajan resident of Dhaneriya Tehsil Relmagra
10. Shri Fatah Lal son of Toliram caste Mahajan resident of Dhaneriya Tehsil Relmagra (Deceased) through LRs
 1. Smt. Jashoda daughter of Fatahlal caste Mahajan resident of Dhaneriya Tehsil Relmagra
 2. Smt. Durgabai wife of Fatahlal caste Mahajan resident of Dhaneriya Tehsil Relmagra
11. Shri Suresh Chandra son of Haraklal by caste Mahajan resident of Dhaneriya Tehsil Relmagra
12. Shri Satyanarayan son of Haraklal by caste Mahajan resident of Dhaneriya Tehsil Relmagra

13. Shri Mukesh son of Haraklal by caste Mahajan resident of Dhaneriya Tehsil Relmagra
14. Shri Kanhaiyalal son of Haraklal by caste Mahajan resident of Dhaneriya Tehsil Relmagra
15. Shri Dinesh Chandra son of Haraklal by caste Mahajan resident of Dhaneriya Tehsil Relmagra
16. Smt. Kanchan wife of Haraklal by caste Mahajan resident of Dhaneriya Tehsil Relmagra

... Non-Petitioners.

Present :

Shri Shiv Prakash Chaudhary :Deputy Govt. Advocate for the State.
None present after due notices: on behalf of the non-petitioner.

Dated :11.06.2026

J U D G M E N T

This reference has been made to the Board of Revenue by Additional District Collector, Rajsamand under section 82 of the Rajasthan Land Revenue Act, 1956 (in short to be referred as 'the Act') by his order dated 18.03.2008.

2. Brief facts of the case are that according to reference forwarded by Additional District Collector, Rajsamand, that Khasra No. 654, 655, 656, 657, 658, 766, 770, 1748, 1751, 1752, 1757, 1758 and 1808 total 13 admeasuring 15 Bigha 11 Biswa situated in Village Dhaneriya, Tehsil Relmagra were recorded in the name of different account holders. All the above mentioned lands were registered in the name of 'Shri Charbhuja Ji Sthan Deh' in account No. 238 in the last land settlement (bandobast) of Samvat 1981. At the time of last land settlement, Khasra No. 49, 647, 648, 871, 872, 874, 875 and 894, total 8 admeasuring 10 Bigha 16 Biswa, were recorded in the account of 'Shri Charbhuja Ji Sthan deh' in Khevat Khatauni No. 238.

3. Present Khasra No. 766 and 770 measuring 04 Bigha 01 Biswa, whose previous land-measurement's Khasra No. was 49 area 03 Bigha 07 Biswa and the land was recorded in the account of 'Shri Charbhuja Ji Sthanadeh' in Samvat 1981 (bandobast) in account No. 238 and the co-tenant was mentioned as Shri Kalu son of Chatra Lohar. This land, being transferred

through inheritance and sale, is mentioned as 1/3 part in name of Rameshwarlal, Nandlalson of Ramchandra, Geetadevi wife of Ramchandra, 1/3 part in name of Fatahlal son of Motilaland 1/3 part in name of Suresh, Satyanarayan, Mukeshchandra, Kanhaiyalal, Dinesh son of Haraklal, Kanchan wife of Harkalal all by caste Mahajan as account holders in Samvat 2057-60 in revenue records. Khasra number 654,655,656,657,658,1758,1808 total 7 admeasuring 06 Bigha 07 Biswa of village Dhaneriya, whose previous land settlement's Khasra No was 647,648,875 and 894, total 4 measuring 04 Bigha 10 Biswa, was registered in the name of 'Shri Charbhujaji SthanDeh' in Khevat No. 238 of the last settlement of Samvat 1981 and Champalal, Baldev sons of Kushal Sevak co-tenant were registered as priests/pujari. In course of time, these lands were removed from the name of 'Shri Charbhujaji Sthan Deh' and were registered in the name of the priest and after being transferred through inheritance, in account number 245 of Jamabandi Samvat 2057-60, after the death of Kishanlal, land was registered in the names of Mohanbai, wife of late Pannalal, Sawai Ram adopted son of Pannalal in 1/2 part and Bherulal, Rukman, Kamla son/daughter of Kishanlal, Mohanibai wife of late Kishanlal in remaining 1/2 part, all by caste Brahmin through mutation. Khasra No. 1748 area 02Bigha05 Biswa and Khasra No. 1752 area 18 Biswa of village Dhaneriya, total 2 measuring 03 Bigha 13 Biswa, whose previous land-measurement Khasra No. was 871 and 872, which was registered in the name of 'Shri Charbhujaji Sthan Deh' in account No. 238 in Jamabandi of Samvat 1981. At the time of land settlement, this land was registered in the name of Kishanlal son of Baldev Brahmin and by inheritance, it is currently registered in the name of ShriBherulal, Rukman, Kamla son/daughter of Kishanlal, Mohanibai wife of late Kishanlal Brahmin. Khasra No. 1751 area 01 Bigha 02 Biswa and Khasra No. 1757 area 19 Biswa which were made from Khasra No. 871 and 874 of the previous land-measurement. In the Jamabandi of the previous land settlement, Khasra No. 871 and 874 were recorded in the name of 'Shri Charbhujaji Sthan Deh' and Pujari/priest Champalal Baldev, son of Kushal Sevak. This land was removed from the name of 'Shri Charbhujaji Sthan Deh' and registered in the name of the priest and after being transferred through inheritance, the record is

registered in the name of Mohanibai, wife of late Pannalal, Sawairam adopted child of Pannalal by caste Brahmin in Account No. 244 of Jamabandi Samvat 2057-60.

4. All the above mentioned lands of village Dhaneriya, whose previous land settlement's Khasra No. were 49,647,648,871,872,874,875 and 894, total 8, admeasuring 10 Bigha 16 Biswa, were registered in the account of 'Shri Charbhujaji Sthan Deh'. The present Khasra No. of these lands are 654, 655, 656, 657, 658, 766, 770, 1748, 1751, 1752, 1757, 1758 and 1808, total 13, admeasuring 15 Bigha 11 Biswa. This land was registered in the account of 'Shri Charbhujaji Sthan Deh', which was further registered in the name of cultivators/priests. The idol is a perpetual minor, and the idol's land cannot be transferred to a subletting cultivator/priest or anyone else and Hence by forwarding this reference application to Board The Additional District Collector, Rajasamand and requested to order all of the above mentioned lands be transferred back in the name of 'Shri Charbhujaji Sthan Deh', Village Dhaneriya. The above mentioned lands were the khatedari lands of 'Shri Charbhujaji Sthan Deh' in the previous land settlement, which were later registered in the names of co-tenanat/cultivators/priests, for which this reference application has been submitted to get them registered again in the name of 'Shri Charbhujaji Sthan Deh'.

5. In support of reference, learned Dy. Govt. Advocate submitted that initially disputed lands were entered in the name of 'Shri Charbhujaji Sthan Deh' later it was registered in the name of non-petitioners; Since the Idol is an eternally minor, therefore, the disputed land of 'Shri Charbhujaji Sthan Deh' being the khatedari land of the eternal minor, cannot be transferred to any person nor can khatedari rights be granted to any person in the said land. In the present case, the disputed land has been registered in the name of non-petitioners instead of 'Shri Charbhujaji Sthan Deh', which is a clear violation of the Rajasthan Tenancy Act and Rajasthan Land Revenue Act. Hence, the entries made in the name of non-petitioners deserve to be cancelled and it is justified to register the khatedari of the disputed land again in the name of 'Shri Charbhujaji Sthan Deh'. Hence, reference be accepted.

6. Having heard the arguments of learned Dy.Govt.Advocate Shri Shiv Prakash Chaudhary, upon the perusal of the record, and after giving thoughtful consideration to the contentions of learned Dy.Govt.Advocate, that in the last land settlement (bandobast) of Samvat 1981, the dispute land bearing old Khasra No. 49,647,648,871,872,874,875 and 894, total 8, admeasuring 10 Bigha 16 Biswa, were registered in the account of 'Shri Charbhujaji Sthan Deh'. The present Aarazi No. of these lands are 654, 655, 656,657,658,766,770,1748,1751,1752,1757,1758 and 1808, total 13, admeasuring 15 Bigha 11 Biswa, which was further registered in the name of cultivators/co-tenants/priests and their legal representatives. One of the grounds taken by the private respondents in the court below was with regard to the objection under Section 239 of Rajasthan Tenancy Act, which deals with the cases pertaining to disputes as to proprietary rights of the parties. The effect of this objection is that when the matter relates to the proprietary rights of the parties reference is not maintainable. This argument and the contention taken by the private respondents while apt in law, do not attract the merits of this case on factual appreciation. It is for the reason that that the private respondents were shown to have been recorded as 'Shikmi Khatedar' which is not *per se* Khatedar in their own right, but only a variant of sub-tenant according to tenancy law. This entry of private respondents as sub-tenant in the revenue records do not by itself confer any right or title on to them for the simple reason that revenue entries are only fiscal entries, they do not have any say qua title and ownership of the land. That apart in the present case no matter/case was to shown to have been pending which relates to the proprietary rights or related issues between the parties *inter se* as per record. Therefore these contentions of the private respondent were rightly rejected by the court below.

7. With regard to the instant reference the law is well settled that under Section 46 of the Rajasthan Tenancy Act, 1955, lands belonging to a temple deity are held for public purposes; the temple deity is recognized as a 'juristic person' (legal entity) possessing the right to hold property, and no private individual can acquire tenancy rights in its agricultural land. Under Revenue Law, a temple deity is deemed a 'perpetual minor,' and

consequently, the transfer of land, in which the deity holds title and tenancy rights, is prohibited for any purpose whatsoever. Thus, the transfer of the temple deity's land in the name of non-petitioners through mutation and entry in the revenue records is entirely contrary to the law, rendering it illegal and null and void. A temple is a perpetual minor and a juristic person. Regardless of who cultivates the temple's land whether it is cultivated by a Shebait(manager), a priest, an agent, or through laborers engaged on wages, it shall be deemed to be the temple's Khudkasht, and the tenancy rights therein shall vest in no person other than the temple itself. The above view of this court is supported by the judgment of Hon'ble Rajasthan High Court in the case of State of Rajasthan Vs. Mangilal[2023:RJ-JD:34470] wherein Hon'ble Rajasthan Highcourt while discussing the law, as laid down in Division Bench judgment of Rajasthan High Court in Tara Vs. State of Rajasthan[2015(4)RLW(Raj) 2721] has held that once land in the land record was marked as a Temple land neither the private party nor any person claiming through them could acquire Khatedari Rights. Even a Pujari or manager of such land has no rights even when his name is entered in revenue record as pujari/manager or in any form of similar connotations.

8. As discussed hereinabove, it is clear that in law as well as on facts, the land which was once entered in revenue records in the name of Devshal/Deity(in this case it is Shri Charbhujaji Stan Deh) cannot be transferred or allotted to any private person. However, it is also settled position that the settlement operations are conducted under revenue laws for identification and demarcation of revenue land. The lands with older identification number may be changed to new identification numbers depending upon the facts and circumstances of each case, but the area of land cannot be changed or altered in settlement operation. This being so, in present case, the old Khasra Nos. admeasuring 10 Bigha and 16 Biswa cannot be altered or changed into new Khasra Nos. with 15 Bigha and 11 Biswa, unless there are reasons justifying the same. This position of law is no more *res-integra*, as held by Hon'ble Rajasthan High Court in the case of *Idan Vs. State of Rajasthan* [2001 RRT(1) 244], that settlement authorities are not empowered to change previous entries without the order of competent

authority. This position was further expanded by the full bench pronouncement of this board in RRD(1969) 231 that previous entries are to be repeated by the settlement operations, unless there is any order to the contrary. In case of such discrepancies of the measurement of the land post settlement operations, the entire area of the village is required to be examined, so as to find out how 10 Bigha and 16 Biswa land of Khasra No. 49,647,648,871,872,874,875 and 894 was re-identified and numbered after settlement operations into land measuring 15 Bigha and 11 Biswa with Khasra No. 654,655,656,657,658,766, 770,1748,1751,1752,1757,1758 and 1808. For this a comparative datasheet for measurement of land of new and old Khasra Nos. is to be enquired into and if there is no reasonable/legitimate justification for such enhancement in measurement of land from 10 Bigha and 16 Biswa to 15 Bigha and 11 Biswa, then such excess land is to be dealt with as per law.

9. Therefore, in the light of above discussion, this reference deserves to be partially allowed, with the direction that the land record holder /land holder/ Sub-Divisional Officer/Tehsildar, as may be authorized under Rajasthan Tenancy Act, 1955 and Land Revenue Act, 1956 shall convene an enquiry, as to the status of land in dispute, in the light of the discussion in Para 8 of this order. Consequent upon this enquiry, if any land or parcel of land is found to be in excess, then the same shall be dealt with, in accordance with law. After conducting such enquiry and after comparison of old and new Khasra Nos., requisite parcel of land as corresponds to the old Khasra Nos. 49,647,648,871,872,874,875 and 894 total 8 will be entered in the revenue records in the name of 'Shri Charbhujaji Sthan Deh'. Be it ordered accordingly.

10. In this regard it is also important that the record of reference files be updated. Registry is directed to ensure that documents like Milan Kshetraphal, Revenue Maps, old and new Jamabandi and Girdavaries, Settlement Operation records if any, or any other order or revenue record must invariably be connected with reference cases. For this purpose a special drive is required to be conducted in close cooperation with Government Advocates, and every endeavour is to be made for getting on record, above

mentioned revenue records, in each and every reference case pending in the Board. The registry shall submit a compliance report of this judgment to the Hon'ble Chairman of the Board within two months of the date of this Order.

ORDER

Consequent upon the discussion hereinabove, this court, after considering the factual matrix of this case and upon careful analysis of relevant law and authoritative judicial pronouncements, arrives at the conclusion that this reference is partially allowed, with the direction that the land record holder /land holder/ Sub-Divisional Officer/Tehsildar, as may be authorized under Rajasthan Tenancy Act, 1955 and Land Revenue Act, 1956 shall convene an enquiry, as to the status of land in dispute, in the light of the discussion in Para 8 of this order. Consequent upon this enquiry if any land or parcel of land is found to be in excess then the same shall be dealt with in accordance with law. After conducting such enquiry and after comparison of old and new Khasra Nos. requisite parcel of land as corresponds to the old Khasra Nos. 49,647,648,871,872,874,875 and 894 total 8 will be entered in the revenue records in the name of 'Shri Charbhujaji Sthan Deh'. Registry is directed to ensure promptness in compliance. This reference is disposed of accordingly.

Pronounced in open court.

(SANUJ KULSHRESTHA)

Member

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