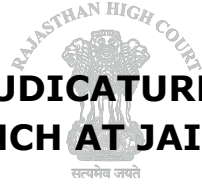




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 2127/2008

Gopal Lal S/o Shri Kedar Lal, aged about 37 years, R/o B-10,
Tulsi Dasji Ki Bagichi, Janata Colony, Jaipur.

----Petitioner

Versus

1. Jaipur Development Authority, Indra Circle, Jawahar Lal Nehru Marg, Jaipur Through Its Secretary.
2. A.M.B. Hotels Private Limited, B-179, Ist Floor, Greater Kailash Part-1, New Delhi.
3. JDA Appellate Tribunal, Indra Circle, Jawahar Lal Nehru Marg, Jaipur.

----Respondents

----Proforma-Respondent

For Petitioner(s) : Mr. Sarthak Rastogi with
Mr. Tushar Kumar and Ms. Mansvi

For Respondent(s) : Mr. Arpit Srivastava for respondent
No.1
Mr. R.S. Mehta for respondent No.2

HON'BLE MR. JUSTICE GANESH RAM MEENA

Order

Arguments concluded on :: **27/03/2026**
Order reserved on :: **27/03/2026**
Pronounced on :: **02/05/2026**

1. The present writ petition has been filed by the petitioner under Article 227 of the Constitution of India against the order dated 20.12.2007 passed by the respondent No. 3 - the learned Jaipur Development Authority Appellate Tribunal (for short "JDA Tribunal") whereby the appeal filed by the petitioner against auctioning of his land by respondent No. 1-Jaipur Development Authority was dismissed.



2. The facts borne out of the pleadings are that the petitioner has filed an appeal before the JDA Tribunal alleging therein that his land bearing *Khasra* No.128 of Revenue Village Chainpura, Tehsil Sanganer, District Jaipur was part of old bearing *Khasra* No. 48/171 measuring 11 *biswa*, which was entered in the name of late Brijmohan and was later on recorded in the name of Brijmohan's son, namely, Roop Narayan. The aforesaid land of *Khasra* No. 48/271 was proposed for acquisition by the erstwhile UIT Jaipur, however, allegedly, the scheme could not be implemented and was challenged on the ground of the land being earmarked for extension of the Sanganer Airport.

The petitioner alleged in the appeal that the land bearing *Khasra* No. 128 measuring 0.04 hectare was recorded in the *khatedari* of the petitioner vide order dated 06.11.1985 passed by the Assistant Settlement Officer, Sanganer under the provisions of Section 125 of the Rajasthan Land Revenue Act, 1956 (for short "the Act of 1956") and the same remained under his possession. However, allegedly, the respondent No. 1-Jaipur Development Authority came and demolished the boundary wall and issued an advertisement dated 06.04.2007 in the newspaper for auctioning of the land which included the petitioner's land and the same was auctioned on 16.04.2007.

The petitioner filed an application before JDA Tribunal annexing the map drawn by an approved architect superimposing the petitioner's land on the *Khasra* plan and also, filed an application on 16.10.2007 before respondent No. 1-Jaipur Development Authority claiming that even if it was presumed that





the land was acquired, the same was liable to be regularized as per the State Government's Circular dated 26.05.2000 with regularization charges @25% of residential reserve price.

Further, an application seeking direction to the revenue authorities for measuring the petitioner's land bearing *Khasra* No. 128 and the land auctioned by respondent No. 1-Jaipur Development Authority was filed by the petitioner, however, no action was taken on the said application.

The appeal filed by the petitioner finally came to be dismissed by the JDA Tribunal vide its impugned order dated 20.12.2007.

3. In the backdrop of these facts, the learned counsel for the petitioner submitted that the JDA Tribunal had no jurisdiction to test the validity of the order passed by the Assistant Settlement Officer as the same was not challenged by the respondent No. 1-Jaipur Development Authority and thus, attained finality.

Learned counsel further submitted that no notice was given to the petitioner by the respondent No. 1 before demolishing the boundary wall of his land and the State Government had no power to acquire the said land.

It is further contended by learned counsel that the JDA Tribunal had committed an error by entitling respondent No. 2 - A.M.B. Hotels Pvt. Ltd. for interest on the amount of Rs. 8 crores deposited by it before the respondent No. 1-Jaipur Development Authority.

4. Per contra, the learned counsel for the respondent No. 1, in the reply to the writ petition, refutes the above-mentioned





contentions and submitted that the case of the petitioner cannot be based on his rejoinder and also, no registered sale deed has been presented by him to prove his title.

Learned counsel further contended that the petitioner was a rank trespasser, claiming title of a portion of the land vested in the State and Section 83(8) of the Jaipur Development Act, 1982 (for short "the Act of 1982") does not apply upon rank trespassers.

It is the stand of the respondent No.2 that the land in dispute was acquired by the respondent No. 1 on 03.06.1981 and the possession of the same was taken on 06.07.1982, which was much prior to the auction held on 16.04.2007 and the said possession cannot be challenged by the petitioner, as he being a subsequent transferee.

5. Learned counsel for the respondent No. 2 in the reply to the writ petition submitted that the respondent No. 2 participated as the highest bidder in the auction held on 16.04.2007 and his bid was accepted by the respondent No. 1- Jaipur Development Authority vide its letter dated 23.04.2007.

Learned counsel further submitted that the respondent No. 2 has been unnecessarily dragged into the dispute between the petitioner and the respondent No. 1 and immense loss suffered by it as a result of the said dispute.

6. Considered the submissions made by counsel for the respective parties and also perused the material made available on record.





7. The Hon'ble Apex Court in case of ***Shalini Shyam Shetty and Anr. Vs. Rajendra Shankar Patil reported in (2010) 8 Supreme Court Cases 329*** has laid down principles to exercise the jurisdiction under Article 227 of the Constitution of India. The Hon'ble Apex Court in para 49 has observed as under:-

"49. On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:

(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by High Court under these two Articles is also different.

(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of Superintendence on the High Courts under Article 227 and have been discussed above.

(c) High Courts cannot, on the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or Courts inferior to it. Nor can it, in exercise of this power, act as a Court of appeal over the orders of Court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of its power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh (supra) and the principles in Waryam Singh (supra) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.





(e) According to the ratio in *Waryam Singh (supra)*, followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and Courts subordinate to it, "within the bounds of their authority".

(f) In order to ensure that law is followed by such tribunals and Courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of tribunals and Courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or Courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(i) High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in the case of *L. Chandra Kumar vs. Union of India & others*, reported in (1997) 3 SCC 261 and therefore abridgement by a Constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.





(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this Article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and Courts subordinate to High Court.

(n) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.

(o) An improper and a frequent exercise of this power will be counter-productive and will divest this extraordinary power of its strength and vitality."

8. The learned JDA Tribunal after examining the complete record has held that the petitioner could not establish his possession and title over the land-in-question. The learned JDA Tribunal has observed that the petitioner has raised a dispute on the basis of some entry in the record made pursuant to the order dated 06.11.1985 passed by the Assistant Settlement Officer, Jaipur, Sanganer under the provisions of Section 125 of the Act of 1956 existing on that date, which later on stands repealed.





9. As per the facts on record, when the acquisition proceedings were initiated and notification under Section 4 of the Rajasthan Land Acquisition Act, 1953 (for short "the Act of 1953") was issued on 21.08.1969, the land was recorded in the name of Brijmohan. A declaration under Section 6 of the Act of 1953 was made on 28.02.1973 and the award was passed on 03.06.1981 for 6 *biswa* of the land for the reason that 5 *biswa* of the land was already acquired by the PWD for construction of the road and therefore, the award was passed as regards the remaining land measuring 6 *biswa* as is evident from para 7 of the award dated 03.06.1981 (Annexure-3). The possession of the land is also said to be taken by the Land Acquisition Officer on 06.07.1982 and the said acquisition proceedings were never said to have been challenged either by the erstwhile owner Brijmohan and his successor or by the present petitioner and the acquisition proceedings became absolute and the Jaipur Development Authority become the owner.

10. The petitioner is claiming the land on the basis of order dated 06.11.1985 passed by the Assistant Settlement Officer under Section 125 (now stands repealed) of the Act of 1956.

11. The then existing Section 125 of the Act of 1956 relates to the settlement of the dispute as to the entries in the record of the rights. Since there was an acquisition of the land-in-question and the award has already been passed in the year 1981 and the Jaipur Development Authority has become absolute owner of the land-in-question, any settlement of the dispute regarding land-in-





question by the petitioner or Brijmohan has no bearing on the land acquisition and the possession being taken by the Jaipur Development Authority for the reason that at the relevant time the Jaipur Development Authority was in possession over the land-in-question, therefore, the order dated 06.11.1985 (Annexure-1) is contrary to the record and passed in the back of the Jaipur Development Authority and therefore, the same cannot be made effective and enforceable against the Jaipur Development Authority. As per the facts stated in the order dated 06.11.1985 (Annexure-1), the land-in-question was initially recorded in the name of Roop Narayan- the successor of Brijmohan and when the acquisition proceedings were drawn for the land-in-question, no objection was made by Brijmohan or his successor and the award was passed accordingly. Once the award has been passed by the Land Acquisition Officer over the land-in-question and the possession has already been taken by the Jaipur Development Authority, any order as regards change in the entries of the revenue record would be in the present facts and circumstances of the case a misrepresentation. The provisions of Section 125 of the Act of 1956 do not seem to be applicable in the light of the facts of the present case.

12. The petitioner has referred a judgment passed by Co-ordinate Bench of this Court in case of **Nebhan Das Versus Banshi Lal & Ors.** reported in **1979 Supreme(Raj) 131**, wherein, the Court in para No.4 has observed as under:-





"It may be pointed out that the petitioners made an application under Section 125 of the Land Revenue Act, which reads as under,-

"125. Settlement of disputes as to entries in record of rights. - All other disputes regarding entries in the record of rights shall be decided on the basis of possession.

(2) If in the course of enquiry in to a dispute under this section the Land Records Officer is unable to satisfy himself as to which party is in possession, and shall decide the dispute accordingly.

(3) No order as to possession passed under this section shall debar any person from establishing his right to the property in any civil or revenue court having jurisdiction."

On a bare regarding of section 125, extracted above, it is amply clear that dispute regarding entries in the record of rights have to be decide on the basis of possession, and the Land Records Officer is not required to go into the question of title. It is further clear that if any party is aggrieved by the order passed under Section 125 of the Land Revenue Act, it shall not be debarred from establishing its right to the property in civil or revenue court having jurisdiction. The Revenue Appellate Authority has no doubt observed regarding possession of the land in dispute as follows,-

"There is no dispute regarding possession. The respondents have not taken objection that they are in possession of the disputed land. Before transfer, thereat of this land was deposited by the transfer and after transfer the transferees deposited the rent. Therefore, as regards possession, there appears to be no dispute."

However, attention may be drawn to the finding arrived at by the learned Collector on the question of possession. He has observed that the land in question (land in the bed of the tank) was not under cultivation and therefore, it was not assessed at the aforesaid rate and further that Singharas and lotus flowers are grown in the land and it is used by general public for both





bathing and washing and thus, the land in the bed of the tank is used by the public in which no "khatedari" rights can accrue. It appears that the attention of the Revenue Appellate Authority was not drawn to these findings of the Collector and as already observed above, so far as the Revenue Board is concerned, both the judgments of the Board are a silent on the question. We may point out, even at the risk of repetition, that under section 125 of the Land Revenue Act, under which the proceedings in question had taken place, it was the duty of the Land Records Officer as well as the appellate and revisional authorities to determine the question of possession. It is provided in the section itself that the Land Records Officer is to satisfy himself by summary inquiry as to who is the person best entitled to possession and shall decide the dispute accordingly. If any party is aggrieved by an order passed under sec. 125, he has the remedy to establish his right to the land in any civil or revenue court. Since the Board of Revenue for Rajasthan has not decided the dispute on the basis of possession, we have no alternative but to quash the impugned orders of the Board."

13. As per the facts on record, since the acquisition proceedings for the land-in-question were initiated on 21.08.1969 by issuing notification under Section 4 of the Act of 1953 and thereafter, declaration under Section 6 of the Act of 1953 on 28.02.1973 and the award was passed by the Land Acquisition Officer on 03.06.1981 and the possession of the 6 *biswa* of the land was acquired by the Jaipur Development Authority in the year 1982, the aforementioned case would have no bearing on the present case because the acquisition proceedings were completed much prior to the order passed under Section 125 of the Act of 1956 and the possession was also taken long back.





14. The Hon'ble Apex Court in case of **Meera Sahni versus Lt. Governor of Delhi & Ors.** reported in **2008 (9) SCC 177** has observed as under:-

"23. We have also given our consideration to the contention of learned senior counsel Dr. A.M. Singhvi that it is a case of remand to the High Court so as to enable the High Court to enquire into factual aspect as to whether or not there was a proper application and that whether or not, permission as required, was granted by the competent authority. The facts delineated hereinabove clearly and explicitly prove and establish that the same did not happen and all the statutory requirements were totally ignored and overlooked by the appellants and also by the registering authority. Therefore, it cannot be a case for remand under any circumstances. The responsibility, if any, was on the appellants to prove and establish that necessary permission/NOC was granted by the competent authority. They have also failed to prove that the certificate, which is annexed and signed on behalf of the Additional Magistrate/Tehsildar, could be considered as a permission/NOC, as envisaged under the Act. There was no valid transfer in favour of the appellants and, therefore, there is no question of issuing any direction to the respondents to allot any alternative land to the appellants. So far as the prayer for granting liberty to the appellants to make an application under Sections 4 and 5 of the Delhi Lands Act is concerned, we do not make any observation thereto except for saying that if a statutory remedy is provided for to a person, he is always entitled to take recourse to such remedy in accordance with law."

15. The Hon'ble Apex Court in case of **Sunil Kumar Jain versus Kishan & Others** reported in **(1995) 4 SCC 147** has observed as under:-





"2. Learned counsel appearing for the petitioner contended that under the agreement of sale dated 05-12-1981 the respondents had received consideration and kept the petitioner in possession of the land and that, therefore, by operation of Section 53-A of the Transfer of Property Act, the petitioner is entitled to the compensation. We are unable to agree with the learned counsel. In a reference, the dispute is to the title to receive the compensation. It is settled law that the agreement of sale does not confer title and therefore, the agreement-holder, even assuming that the agreement is valid, does not acquire any title to the property. It is seen that the agreement is subsequent to the notification under Section 4(1). The Government is not bound by such an agreement. The inter se dispute is only with respect of the undoubted owner of the property as per Section 4 notification and that, therefore, the compensation was directed to be paid to the respondent since he is one of the members. We cannot find any illegality in the order passed by the courts. However, if the petitioner has got any claim under Section 30 of the Land Acquisition Act, it is open to him to take such action as is open to him under law."

16. The Co-ordinate Bench of this Court in case of **The State of Rajasthan & Ors. Versus Late Shri Triloki Nath Sahani & Ors. (S.B. Civil Miscellaneous Appeal No.413/1991)** decided on **17.10.2023** has observed as under:-

"15. Likewise, an agreement to sale does not create any title in favour of applicant over the land and the agreement of the applicant would be best make the applicant entitled for refund of consideration money because agreement was entered into subsequent to the acquisition proceedings. Further, applicant was not a party to the land acquisition proceedings at any stage, therefore, this Court is of the view that the





*applicant cannot be impleaded as a respondent
in this appeal"*

17. The petitioner is claiming right over the land-in-question on the basis of transfer of his name in the land records by virtue of order dated 06.11.1985 passed by the Assistant Settlement Officer under the provisions of Section 125 of the Act of 1956.

The land is said to be acquired by issuing notification under Section 4 of the Act of 1953 on 21.08.1969 and the declaration under Section 6 of the Act of 1953 on 28.02.1973 and thereafter, award passed by the Land Acquisition Officer on 03.06.1981 and the possession being taken by the Land Acquisition Officer on 06.07.1982, the petitioner cannot claim his rights on such transfer in view of the restriction given under Section 3 of the Rajasthan Lands (Restrictions on Transfer) Act, 1976 (for short "the Act of 1976"). Section 3 of the Act of 1976 reads as under:-

"3. Prohibition on transfer of lands acquired by State Government. - No person shall purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the State of Rajasthan, which has been acquired by the Government under the Rajasthan Land Acquisition Act, 1953, or under any other law providing for acquisition of land for a public purpose."

18. Since the land was acquired, award was passed and the possession was taken in the year 1982, the transfer of the land in the name of the petitioner by order dated 06.11.1985 i.e. subsequent to the award and possession taken by the Jaipur Development Authority, is hit by Section 3 of the Act of 1976 and





therefore, the order dated 06.11.1985 passed by the Assistant Settlement Officer in opinion of this Court does not benefits him.

19. It was also argued by counsel for the respondent No.2 that as per the affidavit filed with this writ petition, the age of the petitioner at the time of filing of the writ petition in the year 2008 was 37 years meaning thereby, in the year 1985 he was 15 years of age and therefore, at that time he was minor. The Assistant Settlement Officer vide its order dated 06.11.1985 has ordered to record the name of the petitioner in the revenue record on the basis of his possession over the land-in-question and the consent given by the recorded *khatedar* Brijmohan or his successor. Looking to the age of the petitioner at the relevant time seems that the fact of possession shown of the petitioner in the year 1985 is wholly misconceived. A young boy of 15 years age cannot be said to be the possession over the land-in-question and the order of the Assistant Settlement Officer seems to be just fiscal proceedings of papers which has no bearing in actual. After making scrutiny of the order passed by the JDA Tribunal, the Court finds that the findings of the JDA Tribunal are just and proper in the facts and circumstances of the present case and does not suffers any illegality or perversity and the findings have been given by the Tribunal after due examination of the record and application of mind which does not call any interference. In view of the discussion made above, the Court finds no merit in this writ petition and the same deserves to be dismissed.





20. It is well settled principle of law that in writ jurisdiction under Article 227 of the Constitution of India, the findings given by the Court below or Tribunal after assessment of the evidence available on record does not deserve interference by reassessing or waiving the evidence.

21. Recently, the Hon'ble Apex Court in case of **Vinay Raghunath Deshmukh Vs. Natwarlal Shamji Gada & Anr. (Civil Appeal No.-----of 2026) (@SLP (C) No.8991 of 2025)** decided on **24.04.2026** in para No.16 has observed as under:-

"16. Yet another aspect that goes to the root of the matter is that the tenants challenged the order passed by the Appellate Bench permitting the amendment by filing a writ petition under Article 227 of the Constitution of India. It is well settled that in exercise of such jurisdiction, it would not be open for the High Court to review or reassess the material that was taken into consideration by the Court while passing the impugned order. In this regard we may usefully refer to the decision in **Raj Kumar Bhatia v. Subhash Chander Bhatia**, wherein a three Judge Bench of this Court held as under:

"11The High Court has in the exercise of its jurisdiction under Article 227 of the Constitution entered upon the merits of the case which was sought to be set up by the appellant in the amendment. This is impermissible. Whether an amendment should be allowed is not dependent on whether the case which is proposed to be set up will eventually succeed at the trial. In enquiring into merits, the High Court transgressed the limitations on its jurisdiction under Article 227. In **Sadhna Lodh v. National Insurance Company**, this Court has held that the supervisory jurisdiction conferred on the High Court under Article 227 is confined only to see whether an inferior court or tribunal has proceeded within the parameters of its jurisdiction. In the exercise of its jurisdiction under Article 227, the High





Court does not act as an appellate court or tribunal and it is not open to it to review or reassess the evidence upon which the inferior court or tribunal has passed an order. The Trial Court had in the considered exercise of its jurisdiction allowed the amendment of the written statement under Order 6 Rule 17 of the CPC. There was no reason for the High Court to interfere under Article 227."

Thus, the discretion exercised by the Appellate Bench while allowing the amendment was not liable to be interfered with in exercise of the Article 227 of the Constitution of India, especially when there was no error of jurisdiction nor a statutory bar for permitting the plaint to be amended based on subsequent events."

22. The land-in-question was auctioned by the Jaipur Development Authority and the respondent No.2 was the highest bidder who has already deposited Rs.8,20,05,000/-, out of which, Rs.4,90,00,000/- was refunded by the Jaipur Development Authority on account of pendency of litigation in the JDA Tribunal and the remaining amount of Rs.3,30,05,000/- lying with the Jaipur Development Authority. On filing of the writ petition against the order passed by the JDA Tribunal, the Co-ordinate Bench of this Court vide order dated 04.03.2008 had passed an interim order directing the parties to maintain *status-quo* as it exists on that day. Because of interim order passed by the Co-ordinate Bench of this Court, the respondent No.2 who is highest bidder in the auction could not get possession of the land auctioned to him till date. The land-in-question was auctioned for commercial purposes and because of pendency of the litigation, the highest bidder had certainly suffered a loss.





23. Accordingly, the present writ petition being devoid of merit, is hereby, dismissed.

24. In view of the order passed in the main petition, the pending applications as well as stay application also stands dismissed.

25. Since this writ petition is now dismissed, the respondent No.1-Jaipur Development Authority is directed to proceed further to finalize the transfer of the land to the highest bidder. The respondent No.1- Jaipur Development Authority is directed to issue a fresh demand notice within a period of fifteen days from today to the respondent No.2 for depositing the balance amount of the bid in a reasonable period. On depositing of the amount by the respondent No.2, the Jaipur Development Authority shall handover the possession of the land-in-question to the respondent No.2 without any delay and preferably within a period of fifteen days from the date of depositing the amount by the respondent No.2 as per fresh demand notice.

(GANESH RAM MEENA),J

Ashish Kumar/