



HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR



S.B. Civil Writ Petition No. 2888/2025

N.T.P.C. Renewable Energy, through its Legal Representative
Lalit Mehta S/o Late Shri Mahaveer S Mehta Aged About 65
Years having its registered office at NTPC Bhawan Scope
Complex-7 Institutional Area Lokhi Road New Delhi

-----Petitioner

Versus

1. The Board Of Revenue, Ajmer
2. The Revenue, Appellate Authority Jodhpur
3. The Tehsildar, Bap, District Phalodi
4. Bhajnaram S/o Thaka Ram, R/o Umaniyao Ki Dhani Tehsil
Dhadhu Distrct Phalodi Rajasthan
5. Mohanram S/o Thakar Ram, R/o Umaniyon Ki Dhani Tehsil
Dhadhu District Phalodi Rajasthan
6. Bhawruram S/o Thakar Ram, R/o Umaniyon Ki Dhani
Tehsil Dhadhu District Phalodi Rajasthan
7. Somari W/o Ramniwas, R/o Umaniyon Ki Dhani Tehsil
Dhadhu District Phalodi Rajasthan
8. Kalidevi W/o Maipal, R/o Umaniyon Ki Dhani Tehsil
Dhadhu District Phalodi Rajasthan
9. Ramniwas S/o Baburam, R/o Umaniyon Ki Dhani Tehsil
Dhadhu District Phalodi Rajasthan
10. Taj Mohmad S/o Kayamdeen, R/o Kalu Khan Ki Dhani
Tehsil Bap, District Phalodi

-----Respondents

For Petitioner(s)	:	Mr. Udit Mathur Mr. Harshvardhan Thanvi Ms. Divya Bapna
For Respondent(s)	:	Mr. S.S. Ladreacha, AAG assisted by Mr. Yogesh Sharma

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

JUDGMENT

Reportable

05/03/2025

1. Heard learned counsel for the parties.



2. Briefly noted facts of the present writ petition are that the petitioner was allotted land for establishment of a 500 Mega Watt Solar Power Project in Tehsil Bap, Village Bhadla, by the District Collector, Phalodi on 04.03.2024. However, the private respondent filed a revenue suit under Section 212 of the Rajasthan Tenancy Act before the Court of Sub-Divisional Officer, Bap.

3. The learned Court of Assistant Collector, Bap, vide order dated 25.11.2024, refused to grant ad-interim injunction in favour of the private respondent. Aggrieved by the order dated 25.11.2024 the private respondent preferred an appeal before the Revenue Appellate Authority, Jodhpur. On 26.11.2024, learned Revenue Appellate Authority granted ad-interim injunction directing the petitioner to maintain the status quo regarding the land in question. Against the said injunction order, the petitioner filed a Revision Petition before the Board of Revenue, Ajmer, which was dismissed on 20.12.2024 without addressing the factual position or the submissions made by the petitioner. Hence, the petitioner-company has preferred this writ petition to challenge the order dated 20.12.2024 passed by the Board of Revenue, Ajmer, dismissing the Revision Petition No.9011/2024 filed by the petitioner under Section 230 read with Section 221 of the Rajasthan Tenancy Act.

4. The learned counsel for the petitioner submits that the learned Board of Revenue has committed an error while rejecting the revision petition filed by the petitioner. He submits that the land has been allotted to the petitioner-company for establishing the Solar Plant and, therefore, the private respondent had no



authority to assail the validity of the allotment order made in favour of the petitioner. Learned counsel submits that the Assistant Collector has rightly rejected the application filed by the private respondent seeking interim injunction, however, the learned Revenue Appellate Authority, without giving an opportunity of hearing to the petitioner, has passed ad-interim order on 26.11.2024. Learned counsel submits that the Solar Project of the petitioner is a time bound project and if the same is not completed within the stipulated period, the petitioner will have to suffer an irreparable loss. He submits that against the ad-interim order granted by the learned Revenue Appellate Authority, the petitioner has preferred a revision petition invoking the provisions of Section 230 read with Section 221 of the Rajasthan Tenancy Act, 1955, however, the same has been rejected in a cursory manner without appreciating the fact that if the order passed by the learned Revenue Appellate Authority on 26.11.2024 is not interfered with then the project of the petitioner will be at stake and the purpose for which the land has been allotted, shall stand frustrated. Learned counsel submits that the revision petition has wrongly been dismissed being not maintainable. He therefore, prays that the writ petition may be allowed and the order dated 20.12.2024 may be quashed and set aside.

5. Per contra, learned counsel appearing for the respondents submits that the learned Board of Revenue has rightly rejected the revision petition filed by the petitioner as the same is not maintainable against ad-interim order passed by the Revenue Appellate Authority. He submits that the stay application preferred



by the private respondents is still pending consideration and the same has not been decided, therefore, the Board of Revenue has rightly rejected the revision petition filed under Section 230 read with Section 221 of the Rajasthan Tenancy Act. Learned counsel for the respondents submits that the revision petition is maintainable only against the decision of the subordinate revenue court in which no appeal lies either to the Board or to a Civil Court. He further submits that as per Section 230 of the Act of 1955, the revisional jurisdiction can be exercised only when the error is committed by the Subordinate Courts while exercising the jurisdiction vested in it or the same has been exercised with material irregularity. He therefore, prays that the writ petition may be dismissed.

6. I have considered the submissions made at the bar and have gone through the relevant record of the case.

7. The undisputed facts of the present case show that the petitioner was allotted the land by the State Government for establishing the Solar Project vide allotment order dated 04.03.2024. The allotment of the land made in favour of the petitioner was challenged by the private respondent by filing a suit before the Assistant Collector, Bap. Alongwith the said suit, an application seeking interim relief was also filed, however, after hearing learned counsel for the respondent, the Assistant Collector rejected the same vide order dated 25.11.2024. Against the order dated 25.11.2024, the private respondent filed an appeal before the learned Revenue Appellate Authority and the learned Revenue Appellate Authority vide order dated 26.11.2024 has passed an



ex-parte ad-interim injunction directing the petitioner to maintain status quo with respect to the land in question. The order dated 26.11.2024 passed by the learned Revenue Appellate Authority was challenged by the petitioner before the learned Board of Revenue by way of filing a revision petition and the same was dismissed vide order dated 20.12.2024 on the ground that the revision petition against ad-interim order is not maintainable.

8. The question in the present case is that whether a revision petition under Section 230 read with Section 221 of the Rajasthan Tenancy Act filed against an ad-interim order passed by any subordinate revenue court in which no appeal lies either before the Board or before the Civil Court is maintainable or not?

9. For better appreciation of the position of facts and law in the present case, it will be fruitful to reproduce Section 221 as well as Section 230 of the Act of 1955, which read thus:

"221. Subordination of revenue courts— The general superintendence and control over all revenue courts shall be vested in, and all such Courts shall be subordinate to the Board; and subject to such superintendence, control and subordination —

(a) Omitted.

(b) all Additional Collectors, Sub-Divisional Officers, Assistant Collectors and Tehsildars in a district shall be subordinate to the Collector thereof,

(c) all Assistant Collectors, Tehsildars and Naib-Tehsildars in a subdivision shall be subordinate to the Sub-Divisional Officer thereof, and

(d) all Additional Tehsildars and Naib-Tehsildars in a Tehsil shall be subordinate to the Tehsildar thereof.



"230. Power of the Board to call for cases— The Board may call for the record of any case decided by any subordinate revenue court in which no appeal lies either to the Board or to a civil court under section 239 and if such court appears —

- (a) to have exercised jurisdiction not vested in it by law; or
- (b) to have failed. to exercise jurisdiction so vested; or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity.

Board may pass such orders in the case as thinks fit."

10. A perusal of Section 221 shows that the power of general superintendence and control over all the revenue courts shall be vested in the Board of Revenue and, therefore, while exercising powers under Section 221, the Board of Revenue is competent to exercise the power of superintendence, control and subordination of the revenue courts. Therefore, there is no quarrel on the point that the Board of Revenue is having power of superintendence and control over all the revenue courts of the State.

11. So far as the revisional power of the Board of Revenue provided under Section 230 of the Act is concerned, the same can be exercised in any case **"decided"** by any subordinate revenue court in which no appeal lies either to the Board or to a civil court and secondly, the power of revision can be exercised on the ground of **"jurisdiction"** if not properly exercised or exercised with material irregularity.

12. Therefore, in the opinion of this Court, the law mandates the maintainability of the revision petition only in a **"decided"** case by the subordinate revenue court where no appeal lies and secondly,



on the ground of jurisdictional error committed by the lower revenue courts. Further, merely passing of an ad-interim order cannot be said to be a decision on the interim application filed and therefore, the same cannot be treated to come in the category of **"a decided case"** as per Section 230 of the Act of 1955.

13. In the considered opinion of this Court, the ex-parte ad-interim orders are generally passed on the initial date of the case while issuing notices to the other side and after the notice, the other side can appear before the concerned Court and put-forth its defence/submissions. Since at the stage of ad-interim order, the application for interim injunction is not decided, therefore, the revision is not maintainable. The simple logic in the considered opinion of this Court is that once the other side appears before the Court, the biparte hearing takes place and then after the opportunity of hearing given to both the sides, ultimately, the Court decides the stay application/application for interim injunction or any other such application. Thus, the revision against ex-parte ad-interim orders is rightly not maintainable under Section 230 of the Act of 1955.

14. The Full Bench of the learned Board of Revenue had an occasion to deal with the similar and akin question in the case of **Jagdish Prasad Vs. Bhopal Ram & Ors. (Revision/LR/9867/2012/ Nagaur)**, decided on 12.03.2014 and the finding arrived at by the Full Bench of the Board of Revenue on the same point is relevant in the present facts and circumstances of the case, which too reads as under:

**"Maintainability of Revision Petitions in the Board:**

62- The Board has been entrusted with the powers to call for the record of its subordinate courts and examine their impugned orders under the revisional jurisdiction provided under Section 230 of the Act. In general such revisional jurisdiction is entrusted to all the High Courts, Tribunals and Revenue Boards to have control over their subordinate courts. The Act of 1955 provides Section 230 as revisional jurisdiction to the Board. The provision of Section 230 is reproduced as under:-

" 230. Power of the Board to call for cases.- *The Board may call for the record of any case decided by any subordinate court in which no appeal lies either to the Board or to a civil court under section 239 and if such court appears-*

- (a) to have exercised jurisdiction not vested in it by law;*
- or*
- (b) to have failed to exercise jurisdiction so vested; or*
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,*

the Board may pass such orders in the case as it thinks fit."

63- The plain reading of the above provisions of law unequivocally suggests that a revision petition can be filed against a case decided by any subordinate Revenue Court under this Act in which no appeal lies either to the Board or to a civil court. Earlier this provision of law was analogous to the revisional powers provided to High courts under section 115 of the Code.

64- This is also very relevant to mention here that Government of India constituted a committee headed by Justice Malimath for expeditious disposal of civil litigation. This committee noticed that record of the lower courts is often sent to the High Courts in revision proceedings resulting in virtual stay of proceedings in the Trial Courts. The committee also had a view that scope of interference by revisional Courts against interlocutory orders should be bare minimum. On the basis of the committee's report, the Code of Civil Procedure



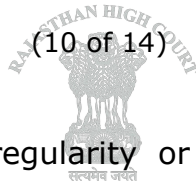
(Amendment) Act 1999 was introduced in the Parliament and Section 115 of the Code was also amended in light of the observations of the committee. But the provision under section 230 of the Act still remains intact.

65- Under the revisional jurisdiction, basically two types of petitions are filed before the Board. Firstly, against the final or interim orders passed by the Trial Courts or Appellate Courts in the proceedings under the provisions of this Act. Secondly, against the orders passed by the Trial Courts or Appellate Courts on interlocutory applications under various provisions of the Code of Civil Procedure in the proceedings under this Act. In the case in hand, this court has to examine the maintainability of revision petitions filed under Section 230 of the Act assailing the ad- interim ex-parte orders passed by the Trial Courts or Appellate Courts.

66- Hon'ble Apex Court has held in D.L.F. Housing and Construction Co. V. Swaroop Singh (AIR 1971 (SC) 2324) that exercise of revisionary jurisdiction is discretionary in nature and a revising court is not bound to interfere with the impugned order only on the ground that conditions provided in the provisions of revision are satisfied. The Apex Court also observed that if the impugned order is interlocutory and the aggrieved party has other efficacious remedy in form of an appeal, the revisional jurisdiction cannot be invoked. It has also been held that revision is not competent to correct errors of facts, however, gross or even errors of law unless the said errors have relation to the jurisdiction of the court to try such disputes. The Apex Court has held that **revisional jurisdiction is not equal to the appellate jurisdiction. Therefore, only jurisdictional errors with material irregularity can be corrected under the revisional jurisdiction.**

67- The scope of the revision jurisdiction is very restrictive in nature as has been held in Bakhtawan V. Mandir Murti Shri Thakur Ji (1968 RRD 394). The revisional court has the powers to entertain a revision only:-

- (1) Where jurisdiction is vested but not exercised, or
- (2) Exercised jurisdiction when not vested, or



(3) Where material irregularity or illegality is committed in exercise of jurisdiction.

68- Hon'ble Apex Court has held in Managing Director, Hindustan Aeronautics Ltd. V. Ajit Prasad (AIR 1973 (SC) 76) that the revisional court has no jurisdiction to interfere with the order of the first appellate court. The order of the first appellate court may be right or wrong; may be in accordance with law or may not be in accordance with law but one thing is clear that it has jurisdiction to make that order. Where it was not the case that the First Appellate Court exercised its jurisdiction illegally or with manifest irregularity, in such cases, the revisional court has no jurisdiction.

69- Hon'ble Apex Court also held in the case of Suresh Chandra Nanhorya V. Rajendra Rajak and others (2006 (7) SCC 800) that a revisional court cannot ignore the basic principle of natural justice which is essence of fair adjudication and which is deeply rooted in tradition and conscience of the judicial system. **Therefore, any order which is passed against a party by the revisional court cannot be passed without providing an opportunity of hearing.**

70- In the case of Harak Chand Vs. State of Rajasthan (1970 RLW 320), the Full Bench of Hon'ble High Court has held that revisional jurisdiction of the court can be invoked only when the subordinate court appears to have acted in exercise of its jurisdiction illegally or with material irregularity. It was also held that whether particular evidence is admissible in accordance with law or not, is a question of law which the Trial Court is entitled to decide and if any manifest error has been committed in deciding that question, it cannot form a ground for revisional jurisdiction. In Bhimraj and others Vs. Board of Revenue and others (1998 RRD 355), Hon'ble High Court has held that as a revisional authority, the Board of Revenue may not agree with the finding of fact recorded by the Appellate Court but that itself does not form a ground for the Board to exercise its revisional jurisdiction.



71- In Raja Ramkaran Vs. B. Ramulu (AIR 1982 (A.P.) 256) the Hon'ble High Court has held that **unless there is a manifest error or material irregularity in exercising jurisdiction, revision petitions cannot be entertained.** The relevant extract of the judgment is as under:-

"8.... There is absolutely no semblance of irregularity in the exercise of power of jurisdiction and the error, factual or legal, if any in the course of passing the order does not impinge upon the jurisdiction vested in the court. The alleged intention of the defendant to avert or by pass the proceedings before the trial court cannot be considered as a material irregularity in the exercise of the jurisdiction by the appellate court. The ethics of a litigant in choosing forum is not a factor can be countenanced for the purpose of determining the jurisdiction of the court. The alleged dilatory attitude of the party cannot sterilize the legitimate jurisdiction of the court.It is well settled as laid down by Division Bench of this court that the aggrieved party can file an appeal as against an interim order and such appeal is competent and the appellate court is competent to entertain it and to pass appropriate order. .."

72- Hon'ble Supreme Court has recently held in the case of Sumatiben Maganlal Manani V. Uttam Chand Kashi Prasad Shah and anr. (2011) 7 SCC 328) as under:-

"34. We are unable to subscribe to the view taken by the High Court. On the basis of the material available on record, as discussed in detail in the judgment of the appellate court, it was perfectly justified in arriving at the finding of sub-letting against defendant No.1. On a careful consideration of the matter, we find that the High Court, in exercise of its revisional jurisdiction, committed a mistake in interfering with the setting aside the findings of fact properly arrived at by the courts below. The judgment and order passed by the High Court is unsustainable by any reckoning."



73- In light of the guiding pronouncements of the superior courts as discussed hereinabove, and existing legal provisions of Section 230 of the Act, this bench is of the considered opinion that:-



- (1) No revision is maintainable before the Board against ad- interim ex-parte orders passed by the Trial Courts or the Appellate Courts. As per the provisions of law only such decided cases under this Act can be assailed in revision before the Board., where no efficacious remedy of appeal is available.
- (2) Revisional jurisdiction is not equal to the appellate jurisdiction. Therefore, only jurisdictional errors with material irregularity can be corrected under the revisional jurisdiction.
- (3) Unless there is a manifest error or material irregularity in exercising jurisdiction, revision petitions cannot be entertained.
- (4) An order of the Trial Court or the Appellate Court cannot be assailed in revision on the ground that the Court below has recorded erroneous findings on facts or law, if that Court had jurisdiction to pass the order sought to be revised.

74. *****

Question no 1:- *****

Answer:- *****

Question no 2:- *****

Answer:- *****

Question no 3:- Whether a revision petition under section 230 of the Act is maintainable before the Board against an ex-parte or ad-interim ex-parte order passed by the Trial Court or by the Appellate Court; and whether provisions of section 221 of the Act can be exercised by the Board in routine matters of



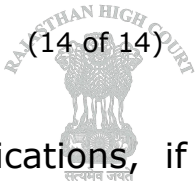
revisions relating to interim orders along with section 230 of the Act or independently under section 221 of the Act?

Answer:- (a) No. A revision is not at all maintainable before the Board of Revenue under Section 230 of the Act against any ex-parte ad-interim order passed by the Trial Court or by the Appellate Court.

(b) The Board of Revenue has adequate powers of general superintendence under section 221 of the Act, but they are not a substitute of or a by-pass or shortcut of Section 230 of the Act. The powers under Section 221 can be sparingly exercised only in rare cases where a gross illegality in apparent disregard to a specific mandatory legal provision or in disobedience of the Superior Court has been committed by the lower court; and where a miscarriage of justice has taken place or the public interest has suffered."

15. In view of the discussions made above, I am of the considered view that the revision petition is not maintainable under Section 230 and 221 of the Rajasthan Tenancy Act against ad-interim orders passed by the subordinate revenue courts and the appellate courts and the revision petition is maintainable only against the decision of the suits as well as the interim applications decided by the revenue courts and appellate courts.

16. Therefore, the present writ petition is devoid of any force and the same is hereby dismissed. However, the learned Revenue Appellate Authority is directed to decide the appeal expeditiously and if the same is not decided, then at least the application for interim injunction shall be decided at the earliest preferably within a period of four weeks strictly in accordance with law after providing an opportunity of hearing to all the parties from the date of receipt a certified copy of the order instant.



17. All the pending applications, if any, as well as the stay application also stand disposed of accordingly.

(VINIT KUMAR MATHUR),J

72-/CP Goyal/-

