

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



S.B. Civil Writ Petition No. 6212/2025

Smt. Kamla Khinchi W/o Shri Dilsukh Khinchi, Aged About 65 Years, R/o House No. 18/360, Khari Kui, Ajmer Presently R/o Ghoogra, Tehsil And District Ajmer.

----Petitioner

Versus

1. Smt. Kamla W/o Panchu, (Since Deceased) Through Legal Representatives:-
  - 1/1. Pappu S/o Late Smt. Kamla, R/o Ghoogra, Tehsil And District Ajmer.
  - 1/2. Shivraj S/o Late Smt. Kamla, R/o Ghoogra, Tehsil And District Ajmer.
  - 1/3. Mukesh S/o Late Smt. Kamla, R/o Ghoogra, Tehsil And District Ajmer.
2. State Of Rajasthan, Through Tehsildar, Ajmer, Tehsil Ajmer, District Ajmer.

----Respondents

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For Petitioner(s) : Mr.Sanjay Mehrish with  
Mr.Rakesh Saini

For Respondent(s) : Mr.R.K. Agarwal, Sr. Adv. with  
Mr.Jai Prakash Gupta

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**JUSTICE ANOOP KUMAR DHAND**

**Order**

**29/08/2025**

1. By way of filing this writ petition, a challenge has been led to the impugned order dated 14.01.2025 passed by the Board of Revenue (for short, "the Board") by which the appeal submitted by the petitioner against the order dated 07.12.2021 passed by the Divisional Commissioner has been rejected.

2. The Divisional Commissioner vide impugned order dated 07.12.2021 has rejected the appeal submitted by the petitioner against the order dated 14.12.2017 passed by the Tehsildar, whereby the mutation of the subject land has been entered into the name of the respondents.

3. Learned counsel for the petitioner submits that the subject land belong to five sons of Heera, i.e., Onkar, Rama, Sukhdeo, Suwa and Panchu and all them were having equal shares, i.e., 1/5 share in the subject land.

4. Counsel submits that all the five brothers executed the power of attorney in favour of Chandi Ram on 22.09.1988 and the power of attorney sold the subject land to Sharda Devi and Nirmala Devi by a registered sale deed on 09.06.1995, who thereafter sold the same land to the petitioner on the basis of the sale deed executed in favour of the petitioner, hence, the mutation of the subject land was entered into the name of the petitioner.

5. Counsel submits that without issuing any show-cause notice to the petitioner, the Tehsildar has changed the mutation entries and the same has been entered into the name of the respondents vide impugned order dated 14.12.2017 in violation of the provisions contained under Section 136 of the Rajasthan Land Revenue Act, 1956 (for short, "the Act of 1956"). Counsel further submits that the provisions of Section 136 were not attracted in the instant case, and if the respondents were aggrieved by the sale deed executed in favour of the petitioner, they could have approached the Civil Court for cancellation of the sale deed or they could have filed the suit under Section 188 of the Act of 1956 before the Revenue Court, but instead of doing so, they submitted

an application under Section 136 of the Act of 1956 which was not maintainable and the Tehsildar did not have any jurisdiction to entertain the same and pass the order impugned.

6. In support of his contention, counsel for the petitioner has placed reliance upon the following judgments passed by the Hon'ble Apex Court and by this Court in the case of **Municipal Board, Barmer Tr. Exec. Officer Vs. State of Rajasthan & Ors.** reported in **2015 (1) RRT 10** decided on 01.08.2011 and **Parmeshwar Vs. Naurang & Ors.** while deciding **D.B. Special Appeal Writ No.1236/2022** decided on 22.08.2024.

7. Counsel submits that in view of the submissions made hereinabove, the impugned orders passed by the Sub-ordinate Courts below are not sustainable in the eye of law and are liable to be quashed and set-aside.

8. *Per contra*, learned counsel for the respondents opposes the arguments raised by counsel for the petitioner and submits that five brothers including the husband of the respondent No.1 Kamla, i.e., Panchu, executed a power of attorney in favour of Chandi Ram in the year 1988, but he died on 16.04.1990, hence, under these circumstances, Kamla's husband's share could not have been sold by the power of attorney-Chandi Ram by executing a sale deed in favour of Sharda Devi and Nirmala Devi on 09.06.1995. Counsel submits that the sale deed to that extent is void in terms of Section 201 of the Contract Act, 1872 (for short, "the Act of 187").

9. Counsel submits that even assuming for a moment that the show-cause notice was required to be issued to the respondents in terms of Section 136 of the Act of 1956, the order passed by the

Tehsildar does not become invalid as the entries were made in favour of the petitioner on the basis of the sale deed executed on behalf of the power of attorney of a dead person. Counsel submits that under these circumstances, the Sub-ordinate Courts below have not committed any error in passing the order impugned.

10. In support of his contention, counsel for the respondents has placed reliance upon the following judgments passed by the Hon'ble Apex Court in the case of **Ritesh Tiwari & Anr. Vs. State of Uttar Pradesh & Ors.** reported in **(2010) 10 SCC 677** and **Maharaja Chintamani Saran Nath Shahdeo Vs. State of Bihar & Ors.** reported in **(1999) 8 SCC 16.**

11. Counsel submits that in view of the submission made hereinabove, interference of this Court is not warranted.

12. Heard and considered the submissions made at the Bar and perused the material available on record.

13. Perusal of the record indicates that the subject land belonged to five brothers who were sons of Heera, all the five brothers were having 1/5 share in the subject land. It appears that the husband of the respondent No.1, i.e., Panchu along-with other four brothers executed a registered power of attorney in favour of one Chandi Ram on 22.09.1988 and on the basis of the same, the said power of attorney sold the subject land to Sharda Devi and Nirmala Devi by executing a registered sale deed in their favour on 09.06.1995 and on the basis thereupon, Sharda Devi and Nirmala Devi have further sold the subject land in favour of the petitioner and on the basis of the said sale deed dated 22.02.2006, mutation entry of the subject land was entered into the name of the petitioner.

14. It appears that subsequently proceedings were initiated by the respondents by way of filing an application under Section 136 of the Act of 1956 before the Tehsildar for correction of the entries and the said application was allowed and the mutation entry of the subject land was made in favour of the respondents vide impugned order dated 14.12.2017. The aforesaid order was unsuccessfully assailed by the petitioner before the Divisional Commissioner as well as the Board, by way of filing appeals, but both the appeals were rejected.

15. Perusal of the orders passed by the Appellate Courts indicate that husband of the respondent No.1, i.e., Panchu expired on 16.04.1990, hence, under these circumstances, both Appellate Courts below were of the view that the 1/5 share of the Panchu could not have been sold by power of attorney-Chandi Ram, after five years of his death. Taking note of the aforesaid fact, it was found that the subsequent sale deed executed in favour of the petitioner qua the 1/5 share of Panchu was not valid.

16. It is the settled proposition of law that after death of an individual, the execution of power attorney of such individual comes to an end automatically in terms of Section 201 of the Act of 1872, hence, under these circumstances, the revenue entries made in favour of the petitioner were not tenable and the same has been rightly quashed by the Tehsildar.

17. This Court finds no error in the impugned orders passed by the Courts below, which warrants any interference of this court. Accordingly, the instant writ petition stands dismissed.

18. Before parting with this order, it is made clear that in case, the petitioner avails any remedy available to him under law, the

observations made by this Court and by the Sub-ordinate Courts will not come in his way.

19. Stay application and all pending application, if any, also stand dismissed.

(ANOOP KUMAR DHAND),J

Aayush Sharma /10