

**(2013) 01 RAJ CK 0191**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 10409 of 2012**

Chhagani Devi (Smt.) and Others

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

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**Date of Decision :** 09-01-2013

**Acts Referred:**

Rajasthan Tenancy Act, 1955 — Section 188, 207, 232, 42, 88

**Citation :** (2013) 1 WLN 536

**Hon'ble Judges :** Vineet Kothari, J

**Bench :** Single Bench

**Advocate :** K.L. Khatri, for the Appellant;

**Final Decision :** Dismissed

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## Judgement

Vineet Kothari, J.—Heard learned counsel for the petitioner. This writ petition has been filed by the legal representatives of Ghamanda Ram, namely, Smt. Chhagani Devi and others against the order dt. 11.04.2012 passed by learned Board of Revenue, whereby the Board of Revenue has summarily rejected the reference under Sec. 232 of the Rajasthan Tenancy Act, 1955, (for brevity, hereinafter referred to as "Act of 1955") sent to it by the Additional Collector, Barmer under his order dt. 30.07.2007 in view of the fact that the plaintiff-petitioners had already filed declaration suit namely Revenue Suit No. 306/2010 - Ghamanda Ram etc. vs. Budha Ram and Ors., and which is pending.

2. Learned counsel for the petitioners, Mr. K.L. Khatri, submits that since the petitioners belong to SC category and transfer of land in question purportedly made in favour of persons belonging to General caste, was void and hit by Section 42 of the Act of 1955 and, therefore, they were constrained to file said subsequent declaration suit also, but had the Board of Revenue taken into consideration this fact, the reference could not be rejected as not maintainable merely because the plaintiff-petitioners had filed subsequent suit for declaration under Secs. 88, 91, 188 and 207 of the said Act. He also produced the copy of order-sheet Revenue Suit No. 306/2010 - Ghamanda Ram vs. Budha Ram & etc.

of the Court below for perusal of the Court.

3. The reasons assigned by the Board of Revenue in the impugned order at Page 3 is only this that since the plaintiff-petitioners had already filed declaration suit, the reference proceedings should not be kept pending and, therefore, the respective rights of the parties should be declared in the declaration suit filed by the plaintiff-petitioners, which is admittedly pending viz. Revenue Suit No. 306/2010 - Ghamanda Ram etc. vs. Budha Ram and others.

4. Having heard learned counsel for the petitioner, this Court is of the opinion that there is no error in the impugned order dt. 11.04.2012 of Board of Revenue and the proceedings of the revenue suit cannot be cut short through the reference proceedings, which is admittedly a summary proceedings and, therefore, the learned Board of Revenue was justified in holding that in view of pendency of regular suit filed by the plaintiff-petitioners for declaration of their rights over the disputed land, the reference proceedings do not deserve to be decided and it was, therefore, justified in dismissing the same as not maintainable. The present writ petition is found to be devoid of any merit and the same is hereby dismissed. No costs. A copy of this order be sent to the respondents forthwith.