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**(2010) 10 RAJ CK 0052**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 8907 of 2010**

Bajrang Lal and Others

APPELLANT

Vs

Swami Kewal Ram and Others

RESPONDENT

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**Date of Decision :** 20-10-2010

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

**Citation :** (2010) 10 RAJ CK 0052

**Hon'ble Judges :** Govind Mathur, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Govind Mathur, J.—An application for eviction from the rented premises and recovery of rent was preferred by the Plaintiffs Respondents No. 1 to 5 against the Defendant Respondent No. 6 before the Rent Control Tribunal, Bikaner. An application under Order 1 Rule 10 CPC therein is preferred by the present Petitioner for becoming party to the proceedings on the count that the suit premises was rented out to his father Shri Chunnilal and after death of him all his sons including the Defendant No. 6 and the Petitioner are doing business in the premises concerned, thus, he is party necessary to the proceedings. The application was dismissed by the Tribunal by holding that the Petitioner and the Defendant No. 6 were involved in business jointly, as such the factum of filing the eviction application was well within the knowledge of the applicant Petitioner.

2. It is contended by counsel for the Petitioners that the Petitioners and the Defendant No. 6 are having different business and they are not at all involved in any joint commercial activity, as such the court below erred while rejecting the application preferred under Order 1 Rule 10 Code of Civil Procedure.

3. On examination of the order impugned I do not find any merit in the argument advanced.

4. The Petitioners are admittedly residing at the same station where Defendant

No. 6 is residing, and they all the real brothers. There is no iota of evidence available on record to establish that the Petitioners and the Defendant No. 6 are involved in different business in the same premises. Be that as it may, without entering into the question as to whether there is any joint or common business of the Petitioners and the Respondent No. 6, it appears that the application under Order 1 Rule 10 CPC is preferred only to cause delay in eviction proceedings. Counsel for the Petitioners utterly failed to satisfy as to how the Petitioners were not knowing about present proceedings though they are real brothers of Respondent No. 6. There is no allegation that all the brothers are at strait relations.

5. Learned Counsel for the Petitioners apprehended that the finding given by the Tribunal about joint commercial activity may be utilised against the Petitioners. The apprehension is ill-founded in view of the fact that observation made by the trial court is prima facie only.

6. In totality of the circumstances, I do not find any reason to interfere with the order impugned. The petition for writ is dismissed accordingly.