
(2020) 02 RAJ CK 0230
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1212 Of 2020

Devi Lal Kothar

APPELLANT

Vs

Suresh Kumar

RESPONDENT

Date of Decision : 11-02-2020

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2020) 02 RAJ CK 0230

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Deelip Kawadia

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner aggrieved against order dated 22.10.2019 passed by the Rent Tribunal, Udaipur (â??Tribunalâ??),

whereby, the application filed by the petitioner for scraping the replication filed by the respondent has been rejected.

A petition seeking eviction of the petitioner was filed by the respondent on the ground of bona fide necessity. The petitioner filed reply and denied that the respondent was landlord of the premises.

A replication was filed, inter alia, attempting to establish that the respondent was landlord of the premises.

The petitioner filed application seeking to scrap the said replication, inter alia, with the averments that the replication filed would change the nature of the proceedings and, therefore, the same be scrapped.

The Tribunal after hearing the parties came to the conclusion that the application had no substance and, consequently rejected the same.

Learned counsel for the petitioner made submissions that the respondent was required to indicate his status in the first instance and once he has failed

to indicate his status as landlord, the said aspect could not be incorporated by way of replication as the same would change the nature of the

proceedings and, therefore, the Tribunal was not justified in rejecting the application filed by the petitioner.

Reliance has been placed on judgment of this Court in *Surendra Mehta v. Bapu Lal & Anr.* : 2008 (1) DNJ (Raj.) 501.

I have considered the submissions made by learned counsel for the petitioner and have perused the material available on record.

It is not in dispute that the respondent filed the petition assuming his status as landlord and specifically indicated that pursuant to the notice given

pertaining to the outstanding/due rent, the petitioner had deposited the amount in his bank account.

In the reply, the petitioner sought to question the status and/or the locus standi of the respondent in filing the petition, which led to filing of the

replication, wherein, the respondent indicated the facts, which led to his getting the status of landlord of the premises.

The plea raised that by permitting filing of the replication the same would change the nature of the case is baseless, inasmuch as, once the petition is

filed with assumption as landlord and the petitioner herein chose to question the locus in filing the petition, by way of replication the respondent was

justified in giving out the facts for substantiating his status as landlord. Filing of the replication does not in any manner change the nature of the

proceedings merely because the petitioner chose to question the status of the landlord.

So far as the judgment in the case of *Surendra Mehta* (supra) is concerned, in the said case the landlord by way of filing replication sought to

introduce new ground for eviction, based on which, it was laid down that by way of replication a new cause cannot be added. The said judgment has

no application to the facts of the present case.

Another ground was raised by learned counsel for the petitioner that as the replication was filed with delay, the same should not have been taken on

record. The said plea has been noticed only to be rejected, inasmuch as, no straight jacket principles can be laid down for filing replication and the

same once taken on record by the Tribunal cannot be scraped on the ground of delay, while exercising powers under Article 227 of the Constitution of

India.

In view of the above discussion, there is no substance in the writ petition, the same is, therefore, dismissed.