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**(2010) 03 RAJ CK 0116**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 4318 of 2010**

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|---------------------------------|----|------------|
| Diwakar Sharma                  | Vs | APPELLANT  |
| Rent Tribunal Jaipur and Others |    | RESPONDENT |

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**Date of Decision :** 29-03-2010

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 8 Rule 1(3), 21  
Rajasthan Rent Control Act, 2001 — Section 21, 21(3), 23

**Citation :** (2010) 2 WLN 619

**Hon'ble Judges :** Ajay Rastogi, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Ajay Rastogi, J.—Instant petition has been filed by petitioner (landlord) assailing order dt. 17/02/2010 of the Rent Tribunal whereby application filed by him u/s 21(3) of Rajasthan Rent Control Act, 2001 for taking documents on record was rejected.

2. Application was filed by respondent (tenant) u/s 23 of the Act seeking restraint order against the landlord not to discontinue or withhold amenities enjoyed by tenant. After the notice was served, the petitioner (landlord) filed written statement and the matter has now been ripen for hearing. At this stage, petitioner has filed application u/s 21 read with Order 8 Rule 1(3) CPC, for taking documents on record, which relates to suit for permanent injunction filed by respondent alongwith temporary injunction pending before Civil Judge (Jr.Dn.) Jaipur - copy of which has been filed herein as Annexure 4.

3. Counsel submits that suit for permanent injunction filed by respondent is pending adjudication and if the document is not taken note of and considered while examining application filed u/s 21 of the Act, certainly it would cause prejudice to the petitioner and denial whereof is in violation of principles of natural justice.

4. Submission made is without substance for the reason that at the time when notice was served of application u/s 23 of the Act, petitioner being defendant in pending suit alleged having been filed by respondents for permanent injunction alongwith temporary injunction, despite it being within his knowledge, it was not brought to the notice before the rent Tribunal and only at the stage when matter has ripen, application u/s 21(3) of the Act has been filed and was rejected by the Tribunal vide order impugned.

5. However, since the matter relates to the amenities being enjoyed by tenant u/s 23 of the Act, it is expected to be expeditiously disposed of since if amenities being enjoyed are withheld or discontinued, that could certainly and indirectly dislodge the tenant from suit premises.

6. What has been urged by Counsel about the suit being filed by respondent for permanent injunction, after the Act, 2001 having come into force, the remedy in a situation like present one is available to the parties to invoke Section 23 of the Act which is a special legislation having been enacted by the legislature. This Court finds no justification to entertain this petition.

7. Consequently, writ petition fails and is hereby dismissed.