
(1976) 01 RAJ CK 0007
In the Rajasthan High Court
Case No : Civil Second Appeal No. 31 of 1973

Firm Khila Ram Jawahar Lal

APPELLANT

Vs

Smt. Ghisi Bai

RESPONDENT

Date of Decision : 20-01-1976

Acts Referred:

Rajasthan Premises (Control of Rent and Eviction) Act, 1950 — Section 13A, 14(2)

Citation : (1976) WLN 68

Hon'ble Judges : M.L. Shrimal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.L. Shrimal, J.—This is the defendant-tenant's second appeal arising out of a suit for ejectment in respect of a shop situated in the city of Kota.

2. The ejectment was sought on the ground of reasonable bonafide and personal necessity as well as default in payment of rent.

3. The appellant has filed an application dated October 22, 1975 praying that the decree passed by the lower court may, be set aside keeping in view the recent amendment of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950.

4. A perusal of the amended provisions of Section 14(2) of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 as amended by Ordinance No. 26 of 1975 reveals that the effect of the amendment is that while previously if a landlord required the demeaned premise's reasonably arid bonafide for the use and occupation for himself or for high family he could obtain a decree for the eviction of a tenant but after the amendment the court will have no further examine the question of comparative greater hardship, between the landlord and the tenant before, passing decree for eviction, against the defendant. Besides this the tenant to further entitled to the benefit of Section 13A of Act No. XVII of 1950 as amended by the provisions of Ordinance No. 26 of 1975. In the case on hand the decree passed by the first appellate court has been passed only on the

basis of default in payment of rent so the judgments and decrees of the court below are liable to be set aside in, high of the above mentioned two provisions of law. The learned Counsel for the respondent is not in a position to controvert this.

5. The result is that the appeal is allowed and the judgment and decrees of the courts below are set aside, and the case is remanded back to the trial court with a direction to determine the arrears of rent, interest and full costs of the suit and direct the appellant to deposit the same "within" such time not exceeding 90 days as may be fixed by the trial court. The parties will be free to amend their respective pleadings, Thereafter they may lead evidence, if they so desire on the newly framed issues by the trial court. The evidence recorded during the previous original trial shall be subject to jus? exception, the evidence during the trial after remand, The appellant shall bear the costs throughout.