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**(2010) 11 RAJ CK 0064**

**In the Rajasthan High Court**

**Case No : Civil Writ Petition No. 10400 of 2010**

Kulbhushan Madan

APPELLANT

Vs

Shri Raj Kr Golani and Others

RESPONDENT

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**Date of Decision : 08-11-2010**

**Acts Referred:**

**Citation : (2010) 11 RAJ CK 0064**

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

**Bench : Single Bench**

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## **Judgement**

Ajay Rastogi, J.—Instant petition has been by petitioner (tenant) assailing judgment of the Rent Tribunal whereby application filed by respondent (landlord) was decreed on the grounds of bonafide & reasonable necessity against the Petitioner (tenant) who was directed to hand over vacant possession in terms of decree impugned which was upheld by Appellate Tribunal while dismissing appeal vide judgment impugned.

2. This Court heard the Counsel for Petitioners at admission stage however, taking note of concurrent finding of facts recorded by Rent Tribunal vide judgments impugned while passing decree of eviction on the grounds of reasonable & bonafide necessity, Counsel for Petitioners finally requested that Petitioner may be granted some reasonable time to find out alternative accommodation and taking note whereof, notices were issued vide order dt. 07/10/2010. Today Petitioner (tenant) and Respondent (landlord) are present in person.

3. Counsel for Petitioner (tenant) after seeking instructions from his client submits that Petitioner is running shop for last thirty years in the rented premises and some reasonable time may be granted to him to find out alternative accommodation as this is the only source of his livelihood.

4. Per contra, Counsel for Respondent-landlord submits that learned Rent Appellate Tribunal has recorded a finding that adjacent to the shop in question,

which the Petitioner-tenant is holding on rent, two other shops are lying vacant & closed and if the decree is executed, Petitioner-tenant can easily shift in other available shops adjacent to the rented shop in question and there is no need to search for any alternative accommodation.

5. Counsel for Petitioner (tenant) on the other hand, submits that shops No. 20 & 21, referred to by learned Rent Appellate Tribunal, belong to his brother and no documentary evidence has come on record to support that either of the shop belongs to Petitioner (tenant) in such circumstances, he needs some reasonable time to find out alternative accommodation.

6. This Court has considered contentions of Counsel for the parties and with their assistance examined material on record does not find any error apparent on the face of record in concurrent finding of facts recorded by both the Tribunals. However, taking note of submissions made in regard to the time sought for handing over vacant & peaceful possession of the rented premises, this Court considers it appropriate to grant reasonable time upto 31/12/2011.

7. Consequently, writ petition is partly allowed while upholding the decree of eviction vide judgment dt.04/09/2008 (Ann.4), this Court considers it appropriate to modify the judgments to the extent of granting time to the Petitioners (tenant) to hand over vacant & peaceful possession of the rented premise on or before 31/12/2011, and he will also furnish an undertaking that they would not part with the possession and would not create third party right in regard to rented premises and that apart, the rent in arrears, if any in terms of the judgments impugned herein, be paid within two months from today and till vacation of rented premises, the Petitioners (tenant) will continue to pay monthly rent in terms of the decree on or before 07th of each succeeding month and in case Petitioners (tenant) fail to pay arrears of rent or in case of two consecutive defaults in payment of rent (supra), respondent (landlord) will be at liberty to file application for execution of decree impugned (supra) prior thereto and in case of failure to hand over vacant & peaceful possession of the rented premises, Respondent (landlord) will be at liberty to take appropriate action by filing misc. application before this Court against tenant for alleged disobedience of the order of the Court.

8. No order as to costs.