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**(2011) 08 RAJ CK 0121**

**In the Rajasthan High Court**

**Case No :** Civil Writ Petition No. 3619 of 2011 in Civil Miscellaneous Stay  
Application No. 3267 of 2011

Parmeshwar Dayal Bhargava

APPELLANT

Vs

Additional District Judge and Others

RESPONDENT

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**Date of Decision :** 01-08-2011

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17, Order 8 Rule 1A(3)  
Constitution of India, 1950 — Article 227

**Citation :** (2011) 08 RAJ CK 0121

**Hon'ble Judges :** Mahesh Bhagwati, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## **Judgement**

Mahesh Bhagwati, J.—The Respondent No. 2-Plaintiff filed a suit for eviction on the ground of personal bonafide necessity and for standard rent with respect to the suit property, as described in para No. 2 of the plaint.

2. The Petitioner-Defendant filed the written statement and denied all the allegations made in the plaint. During the course of trial, the Petitioner-Defendant moved an application under Order 8 Rule 1A(3) of CPC for filing certified copies / documents. The Plaintiff-Respondent did not file any reply to the aforesaid application. The learned trial court dismissed the application filed under Order 8 Rule 1A(3) of CPC vide order dated 24.2.2011.

3. Learned Counsel for the Petitioner canvassed that the learned trial court dismissed the application sans any cogent reason, hence the impugned order deserves to be set-aside.

4. Having considered the submissions made by the learned Counsel for the parties, the learned trial court is found to have dismissed the application under Order 6 Rule 17 CPC on the ground that the amendment sought in the written statement was related to the shop situated in Chaura Rasta, whereas the suit

premises were situated in Bapu Bajar at Jaipur. The learned Counsel for the Petitioner has failed to convince me to take a contrary view to that of the view taken by the learned trial court.

5. It is relevant to point out that the extra ordinary jurisdiction under Article 227 of the Constitution cannot be permitted to be invoked to upset the pure findings of fact. The impugned order is not found to be perverse nor contrary to material. The order is, in contra, is found to just and apt, which warrants no intervention. Hence, the writ petition filed by the Petitioner deserves to be dismissed.

6. In view of above, the writ petition fails and the same being bereft of any merit stands dismissed.

7. Consequent upon the dismissal of writ petition, the stay application, filed therewith, does not survive and that also stands dismissed.