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**(2017) 03 RAJ CK 0060**  
**In the Rajasthan High Court**  
**Case No : 76 of 2017**

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|-------------------------------------------------|------------|
| Ravi Shanker Sharma S/o Late Shri Vijay Shanker | APPELLANT  |
| Vs                                              |            |
| Arya Samaj, Kishanpole                          | RESPONDENT |

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**Date of Decision :** 21-03-2017

**Acts Referred:**

<a href=3859>Code of Civil Procedure, 1908</a>, <a href=3859-100>Section 100</a> - Second appeal

**Citation :** (2017) 03 RAJ CK 0060

**Hon'ble Judges :** Prakash Gupta

**Bench :** SINGLE BENCH

**Advocate :** JP Goyal, ?Abhi Goyal, Sudesh Bansal, Poonam Chand Sharma

**Final Decision :** Disposed

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## Judgement

1. The instant Civil Second Appeal under Section 100 CPC has been filed by the defendants-appellants aggrieved by the judgment and decree dated 19.11.2016 passed by learned Addl. District Judge No.10, Jaipur Metropolitan whereby the court below has dismissed the appeal filed by the defendants-appellants against the judgment and decree dated 31.01.2006 passed by Civil Judge (Jr.Div.) (West) Jaipur City, in Civil Suit No.137/1997.

2. Shri JP Goyal, learned Sr. counsel appearing for the defendants-appellants, after arguing the appeal at some length, on instruction of his clients, has not pressed this appeal on merits. The only prayer has been made by him is that time of 3 years may be granted to the appellants to vacate the tenanted premises. It is

submitted by him that appellants are ready to submit undertaking in this regard.

3. Learned counsel appearing for the plaintiffs-respondents Shri Sudesh Bansal on instructions of his client has no objection in granting the time as prayed for by the appellants for vacating the tenanted premises.

4. In view of the aforesaid submission of learned counsel for the parties, this second appeal is being decided in the following terms:-

1. The defendants-appellants shall be entitled to continue in possession of the suit premises up to 31 st March, 2020 but not beyond that, subject to condition that they would hand over the vacant and peaceful possession of the tenanted premises to the respondents on or before 31 st h March,2020.

2. The appellants shall deposit arrears of mesne profit, if any, due towards them up to 19.11.2016 at the monthly rate of Rs.300/- and thereafter till 31 st March, 2017 at the monthly rate of Rs.7500/- within a period of one month from today with the bank account of the respondents and thereafter, from the month of March,2017, the appellants shall continue to deposit the mesne profit at the same rate in the bank account of the respondent by 15th of each month.

3. The appellants shall not alienate or otherwise create third party right or hand over possession of the tenanted premises in question to any other person.

4. If the appellants fail to deposit the mesne profit consecutively for four months, the respondents shall be at liberty to execute the decree without any further reference to the Court.

5. Further, the appellants and proforma respondent No.5 shall submit an undertaking on oath incorporating the aforesaid conditions before the Civil Judge (Jr. Div.) Jaipur Metropolitan (West) within a period of four weeks from the date of this order. In case, the appellants and proforma respondent No.5 fail to submit the undertaking as aforesaid within four weeks from today and/or commit breach of any of the conditions of this order, the respondents Nos. 1 to 4 shall be entitled to execute the decree forthwith and obtain possession of the suit premises in accordance

with law.

6. The second appeal stands disposed of accordingly, Stay application is also disposed of.