

**(2011) 08 MP CK 0121**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 10597 of 2010**

Shri Dadawadi Upasara Baba Sahab Ka Mandir

APPELLANT

Vs

Sureshchand

RESPONDENT

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**Date of Decision : 24-08-2011**

**Acts Referred:**

Registration Act, 1908 — Section 17(1)  
Transfer of Property Act, 1882 — Section 107

**Citation : (2012) 1 MPHT 250**

**Hon'ble Judges : N.K. Mody, J**

**Bench : Single Bench**

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## **Judgement**

N.K. Mody, J.—Being aggrieved by the order dated 20-7-10 passed by II Civil Judge, Class II, Ratlam in Civil Suit No. 9-A/06, whereby rent note submitted by petitioner in evidence was held inadmissible in evidence as the same was not registered under the provisions of Indian Registration Act, present petition has been filed.

2. Short facts of the case are that the petitioner filed a suit for eviction against the respondent alleging that respondent is tenant in the suit premises and the petitioner Trust requires the suit premises bonafidely. The suit was contested by the respondent. After framing of issues at the stage of evidence petitioner tendered the rent note in evidence. An objection was raised by the respondent to the effect that the document is inadmissible in evidence. Objection raised by the respondent was upheld, against which present petition has been filed.

3. Learned Counsel for the petitioner argued at length and submits that the impugned order passed by the learned Court below is illegal, incorrect and deserves to be set aside. It is submitted that since the document was executed by the respondent in favour of petitioner and it was not bilateral document, therefore, learned Court below committed error in holding that the document is inadmissible in evidence. It is submitted that the petition filed by the petitioner be allowed and the impugned order passed by the learned Court below be set

aside.

4. In spite of service of notice respondent is absent.

5. In the matter of Sitaram Vs. Shankarlal, 1986 I MPWN, Note 163, this Court had an occasion to consider the impact of document which has been executed by the tenant and observed that it is explicitly contemplated in Section 107 that a lease of an immovable property shall be executed "by both lessor and lessee" and unless the instrument is of such a nature, evidently, accordingly to me it cannot be called a "lease" to fulfil the requirement of Section 17(1) (d) of the Registration Act. In the instant case, the admitted position is that the instrument in question was a "rent Note", which was executed only by the tenant or the lessee. It was not executed by both lessor and the lessee to fit in the requirement of "lease" contemplated u/s 107 of the Transfer of Property Act. Unfortunately, still the Court below took the view that the instrument in question namely, the rent note aforesaid could not be admitted in evidence. It was further held that the decision is palpably and patently wrong.

6. Keeping in view the fact that the document was tendered by the petitioner in evidence was executed by the respondent and not by both the parties, this Court is of the view that the learned Court below committed error in holding that the document is inadmissible in evidence as it was unregistered. In view of this, petition filed by the petitioner is allowed and the impugned order passed by the learned Court below is set aside. Learned Court below is directed to proceed with the case by allowing the petitioner to exhibit the document in evidence.

7. With the aforesaid observations, petition stands disposed of.

No order as to costs.