

(2012) 01 RAJ CK 0061
In the Rajasthan High Court
Case No : Civil Writ Petition No. 574 of 2012

Smt. Toofani Devi

APPELLANT

Vs

Appellate Rent Tribunal Bharatpur and Another

RESPONDENT

Date of Decision : 20-01-2012

Acts Referred:

Citation : (2012) 01 RAJ CK 0061

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Alok Sharma

1. In the instant writ petition, the petitioner have prayed for direction to Appellate Rent Tribunal Bharatpur for early disposal of the Appeal No.2/2008.
2. The case of the petitioner is that his mother Toofani Devi and brother Balram moved an eviction petition No.111/2004 before the Rent Tribunal, Bharatpur against Krishna Gopal (herein after 'the tenant'), on the ground of personal bonafide necessity etc. The said eviction petition was dismissed vide order dated 23-7-2008. Against the said judgment, an appeal No.2/2008 was preferred before the Appellate Rent Tribunal, Bharatpur, wherein the respondent tenant put his appearance on 27-9-2008.
3. The petitioner submits that thereafter on the one count or the other the matter has been adjourned on the mere asking of respondent tenant. It is submitted that on or about 2-8-2010, the petitioner moved an application for early disposal of the appeal before the Appellate Rent Tribunal, yet the appeal continued to be adjourned casually on various dates and has not yet been decided.
4. The petitioner submits that a perusal of the order- sheets of the Appellate Tribunal (some of which have been annexed to the writ petition) indicates that

the respondent tenant has indulged in delaying the disposal of appeal, and continues to enjoy the suit shop depriving the petitioner from potential success in the appeal which is based on substantial grounds. It is submitted that during pendency of the appeal before Appellate Rent Tribunal Bharatpur, the mother of petitioner Smt.Toofani Devi expired on 24-4- 2011, and the petitioner has been substituted as her legal heir in the appeal. It is further submitted that the eviction petition was filed for the personal bonafide necessity of petitioner Haridutt himself, as such even after death of Smt. Toofani Devi, his bonafide necessity continues as he is unemployed.

5. Heard Haridutt the petitioner, who is present in person, and perused the material available on record of writ petition.

6. It is not in dispute that the object of courts/ tribunal is to find justice in the matter before them and procedure is prescribed or is to be worked out to channelize the proceedings of the courts/ tribunals towards this end. Procedural provisions including adjournment of cases as held by this Court, and also by the Hon"ble Supreme Court are always directory. The discretion conferred on courts/ tribunals in terms of procedure has however to be exercised in the facts of a given case.

7. In the instant case the petitioner Smt. Toofani Devi and her son Balram, filed eviction petition for eviction of respondent tenant on the ground of personal bonafide necessity of Haridutt. The eviction petition was dismissed in the year 2008, thereafter the appeal No.2/2008 is pending before the Appellate Rent Tribunal Bharatpur. The respondent tenant put his appearance on 27-9-2008, thereafter the matter appears to have been adjourned casually without good cause.

8. The object of the summary procedure prescribed for the trial of original application before the Rent Tribunal is expedited conclusion of dispute between landlord and tenants.

9. On consideration of the matter and in the facts of the case, I am of the view that the learned Appellate Rent Tribunal Bharatpur be directed to decide the appeal No.2/2008 expeditiously and in no event later than six weeks from the date of receipt of certified copy of this order.

10. Consequently, the writ petition stands allowed. Misc. application stands disposed of.