

(2017) 11 RAJ CK 0011
In the Rajasthan High Court
Case No : 14534 of 2016

Sohan Lal S/o Shri Kesharam

APPELLANT

Vs

Shri Murarilal S/o Late Shri Keshrichand

RESPONDENT

Date of Decision : 10-11-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Order 6 Rule 17](#)

Citation : (2017) 11 RAJ CK 0011

Hon'ble Judges : Dinesh Mehta

Bench : SINGLE BENCH

Advocate : Rakesh Chotia, Dr. Sachin Acharya, D.D. Chitlangi, Manish Shishodia, Pritam Joshi, Shreekant Verma

Final Decision : Allowed

Judgement

1. In this bunch of petitions, the order impugned is an order passed by the learned Trial Court, whereby petitioners' amendment application(s) filed under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment in the written statement in wake of the applicability of the Rent Control Act, 2001, has been rejected.

2. The basic question involved in the present writ petitions has recently been decided by the Division Bench of this Court at Jaipur, vide its judgment dated 26.10.2017, rendered in batch of petitions led by D.B. Civil Reference No. 1/2015 titled as "K. Ramnarayan Vs. Shri Pukhraj", holding as under:-

"43. The inescapable conclusion emerging from the conclusion delineated above is that the benefit of the mandate of the Rajasthan Rent Control Act, 2001 would have to be extended even in those class of cases where a decree has already been passed by the civil court and the same has been contested by preferring an appeal.

44. The reference is accordingly answered in terms of para 31 and 43 above. Meaning thereby, once the Rajasthan Rent Control Act, 2001 was extended to the municipal areas, the Civil Courts would lose jurisdiction to adjudicate a dispute between a landlord and a tenant. No tenant could be evicted by a Civil Court. The eviction had to be as per the Rajasthan

Rent Control Act, 2001 and on the grounds specified in Section 9 thereof. Even where decrees of ejectment had been passed by the Civil Courts and matters were pending consideration in appeal, the civil proceedings would lapse."

3. In view of the above enunciation by the Division Bench, the present writ petitions are allowed. The amendment applications filed by the petitioners stand allowed. Order impugned passed by the Civil Court, holding that it continues to have the jurisdiction to try the suit in question, despite applicability of Rent Control Act, is quashed and set aside.

4. The petitioners shall file amended written statement, within a period of 15 days from the next date fixed before the Trial court. On failure to do the same, petitioner's right to defend the suit shall stand struck off.

5. The Petitioner(s) or the Respondent-Landlord shall move an application before the Trial Court, along with certified copy of the order instant for giving effect to this order. The Trial Court shall thereafter terminate the suit proceedings in light of the instant judgment read with the judgment of the Division Bench.

6. It goes without saying that the plaintiff shall be at liberty to take recourse to the appropriate remedies, including filing of the petition under the provisions of Rajasthan Rent Control Act, 2001.

7. Writ Petitions allowed.