
(2019) 04 RAJ CK 0073
In the Rajasthan High Court
Case No : Civil Writ Petition No. 241 Of 2019

Thana Ram

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 15-04-2019

Acts Referred:

Rajasthan Rent Control Act, 2001 — Section 3(viii)
Constitution Of India, 1950 — Article 14

Citation : (2019) 04 RAJ CK 0073

Hon'ble Judges : Sangeet Lodha, J;Dinesh Mehta, J

Bench : Division Bench

Advocate : Suresh Shrimali, N.S. Acharaya, N.M. Lodha, S.C. Maloo, V.D. Dadhich

Judgement

1. This writ petition is directed against the judgment and order dated 22.11.18 passed by the Appellate Rent Tribunal, Jalore in Civil First Appeal No.17/17 (C.I.S.No.5/17), whereby the appeal preferred by the petitioner aggrieved by the judgment and order dated 23.9.17 passed by the Rent Tribunal, Jalore in Rent Tribunal Case No.2/15 (C.I.S. Registration No.2/16), directing eviction of the petitioner from the commercial premises and the certificate for recovery of possession issued pursuant thereto, stands dismissed. That apart, it is prayed that the provisions of Section 3(viii) of the Rajasthan Rent Control Act, 2001 ('the Act of 2001'), which provides that nothing contained in Chapter II and III of this Act shall apply to any premises belonging to such religious, charitable or educational trust or class of such trusts as may be specified by the State Government by notification in Official Gazette so also notification dated 7.6.02 issued by the State Government may be declared ultra vires, void and violative of Article 14 of the Constitution of India and the same may be struck down. It is also prayed that notification dated 7.6.02 issued by the State Government while exempting all the premises belonging to respondent no.3-Nandish Dweep Jain Mandir Trust, Jalore from applicability of Chapter II and III of the Act of 2001, may be declared unconstitutional.

2. At outset, learned counsel appearing on behalf of the petitioner submits that the petitioner does not want to press this writ petition on merits. It is submitted that the petitioner is ready to vacate the premises, however, he may be granted time upto 31.12.2020 for the purpose of vacating the suit premises, on reasonable terms and conditions. Learned counsel further submits that the petitioner shall continue to make payment of mesne profits for use and occupation of the premises to the respondent @ Rs.2,500/- per month.

3. Learned counsel appearing on behalf of the respondent no.3 in all fairness has not opposed the limited prayer made on behalf of the petitioner.

4. Accordingly, with the consent of the parties, on the facts and in the circumstances of the case, this writ petition is disposed of with the following directions:-

(1)The petitioner shall vacate and hand over the vacant possession of the premises in question to the respondent no.3 on or before 31.12.2020;

(2)The petitioner shall pay the mesne profits for the use and occupation of the premises as determined by the Rent Tribunal @ Rs.2,500/- per month to the respondent no.3. The arrear of mesne profits, if not already paid, shall be paid within a period of one month from the date of this order.

(3)The petitioner shall continue to pay the mesne profits as aforesaid month by month, by 7th day of the following month towards the use and occupation of the premises during the said period;

(4)The petitioner shall not make any material alteration in the premises in question and shall not part with the possession of the premises during the said period;

(5) The petitioner shall submit an undertaking before the Rent Tribunal latest by 16.5.19, for compliance of the order passed by this Court as aforesaid;

(6)On the failure of the petitioner to comply with any of the aforesaid directions, the certificate for recovery of possession shall become executable forthwith.

5. No order as to costs.