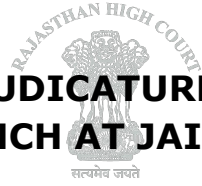




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 12907/2025

Girdhar Gopal Son Of Durgadutt Bawaliya, Aged About 71 Years,
Resident Of Sabji Mandir, Jhunjhunu Tehsil And District
Jhunjhunu (Raj.).

-----Petitioner

Versus

1. Sanwarmal Sharma Son Of Late Shri Mukandaram, Aged About 81 Years, Resident Of Karundiya Road, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.) (Since Deceased) Through L.rs
2. Durgadutta Bawaliya Son Of Late Shri Surajmal Bawaliya, Resident Of Sabji Mandi, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.) (Since Deceased) Through L.rs
3. Gori Shankar Son Of Durgadutt Bawalia, Resident Of Sabji Mandi, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)
4. Mahesh Soni Son Of Ganesh Soni, Resident Of Near Gayatri Mandir, Jhunjhunu Tehsil And District Jhunjhunu (Raj.)
5. Asstt. Engineer, A.v.v.n.l. Jhunjhunu.
6. Nagar Parishad Jhunjhunu, Through Commissioner Nagar Parishad, Jhunjhunu.
7. Pushpa Devi Wife Of Late Sanwarmal, Resident Of Karundiya Road, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)
8. Manju Devi Daughter Of Late Sanwarmal, Resident Of Karundiya Road, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)
9. Sunil Son Of Late Sanwarmal, Resident Of Karundiya Road, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)
10. Anil Son Of Late Sanwarmal, Resident Of Karundiya Road, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)
11. Rekha Daughter Of Late Sanwarmal, Resident Of Karundiya Road, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)
12. Naveen Son Of Late Sanwarmal, Resident Of Karundiya Road, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)





13. Urmila Daughter Of Late Durgadutt Bawalia, Late Shri Surajmal Bawaliya, Resident Of Sabji Mandi, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)
14. Manju Daughter Of Late Durgadutt Bawaliya, Resident Of Sabji Mandi, Jhunjhunu, Tehsil And District Jhunjhunu (Raj.)

-----Respondents

For Petitioner(s) : Mr.Sumit Rawat
Mr.Rohit Sharma

JUSTICE ANOOP KUMAR DHAND

Order

11/09/2025

1. By way of filing this writ petition, a challenge has been led to the impugned order dated 08.07.2025 passed by the Rent Tribunal (hereinafter referred to as "the Tribunal") by which the application filed by the respondent No.1 has been allowed and the affidavit in the form of evidence submitted by the petitioner has not been taken on record, but the same has been ordered to be kept in Part-D of the file.

2. Learned counsel for the petitioner submits that the respondent No.1 had submitted an application under Section 9 of the Rajasthan Rent Control Act, 2001 (for short, "the Act of 2001") against the petitioner for his eviction from the subject premises.

3. Counsel submits that after receipt of the aforesaid application, the petitioner submitted reply on 26.05.2025, but with the reply, the evidence affidavit was not submitted and the same was submitted on 08.07.2025. Counsel submits that slight delay has occurred in filing the affidavit, but the same has not been



taken on record and the same has been ordered to be kept in Part-D of the file.

4. Counsel submits that important question of law and facts are involved and if the affidavit of the petitioner is not taken on the record, the petitioner would be prejudiced by the proceedings pending against him before the Tribunal, therefore, in the interest of justice, a direction be issued to the Tribunal to take the affidavit of the petitioner on record and decide the application submitted by the respondents in accordance with law.

5. Heard and considered the submissions made at the Bar and perused the material available on record.

6. Perusal of the record indicates that after service of notice of the application filed by the respondent under Section 9 of the Act of 2001 against the petitioner, reply to the aforesaid was submitted by the petitioner on 26.05.2025. This fact is not in dispute that the affidavit was not enclosed with the reply and the same was submitted at a later stage on the next date, i.e., 08.07.2025.

7. It appears that the impugned order has been passed by the Tribunal on the basis of Section 15 of the Act of 2001 by holding that the affidavit was not submitted/enclosed by the petitioner with reply and the same was rejected at some belated stage.

8. The issue with regard to mandatory compliance of provisions of Section 15 of the Act of 2001 came up before the Division Bench of this Court and the same was decided by the Division Bench, while observing in Para 11 and 19 in the case of **Ramesh Kumar Vs. Chandu Lal & Anr.** while deciding **D.B. Civil Special Appeal No.1132/2008** on 14.01.2009, which reads as under:-





"11. Section 15 of the Act of 2001 deals with the procedure for eviction of tenant. Since the controversy involved in these appeals rolls round the provisions of sub-section (3) of Section 15 of the Act of 2001, it will be beneficial to reproduce the same, which read as under:-

"15(3) The tenant may submit his reply, affidavits and documents after serving the copies of the same to the petitioner, within a period not exceeding forty five days from the date of service of notice."

19. Thus, it is settled position of law that the law of procedure should not ordinarily be construed as mandatory inasmuch as, the object of providing procedure is to advance the cause of justice and not to defeat it. If a strict adherence to the procedure prescribed results in inconvenience or injustice then, the provision providing for such procedure has to be construed liberally so as to meet the ends of justice. As noticed above, the provision contained in sub-section (3) of Section 15 of the Act of 2001 is in substance pari materia to the provisions of Order VIII Rule 1 of CPC which has been held to be directory by the Hon'ble Supreme Court in the decisions referred supra. Thus, keeping in view the law laid down by the Hon'ble Supreme Court as aforesaid, in our considered opinion, for the parity of the reasons, the provisions of Section 15 (3) also deserves to be held directory in character and not mandatory."

9. The Division Bench of this Court has held that the provisions contained under Section 15 of the Act of 2001 deserves to be held as "directory" in character and not "mandatory".

10. Since the controversy involved in this petition was set at rest by Division Bench of this Court in the case of **Ramesh Kumar**





(supra), this Court finds no valid reason to take a different view. In light of the judgment passed by the Division Bench of this Court in the case of **Ramesh Kumar** (supra), the impugned order passed by the Tribunal is not sustainable and is liable to be quashed and set-aside subject to the following conditions:-

(I) The petitioner would pay a cost of Rs.2,000/- to the respondents.

(II) The petitioner would implant 11 shady plants in his vicinity in public area. The aforesaid process would be carried over by him within a period of 15 days from the date of receipt of certified copy of the order.

(III) He is further directed to look after these plants till disposal of the application before the Tribunal and submit the photographs of these plants before the Tribunal to show that the condition No.2 imposed by this Court has been duly complied by him at the end of every quarter.

11. The reasons for passing this present order asking the petitioner to plant 11 plants is in the interest of the public at large and for the greater public good. Planting trees as directed above, is one such initiative, which this Court considers to be appropriate, as trees, for as long as they thrive whether for decades or centuries will continuously and silently offer numerous benefits to the city and the surrounding community. Future generations will benefit from a cleaner, fresh oxygen-rich environment.

12. With the aforesaid observation/ direction, the instant writ petition stands disposed of.





13. The reason for passing of this ex-parte order is to avoid the delay in disposal of the application submitted by the respondents. Even if the respondents feels aggrieved by this order, he would be at liberty to move an application for revival of this writ petition and for recalling of this order.

14. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

Aayush Sharma /2

