

(2019) 01 RAJ CK 0361

Rajasthan High Court (Jaipur Bench)

Case No: Civil Writ Petition No. 13391 Of 2018

Goverdhandas

APPELLANT

Vs

Ramesh Chandra And
Ors

RESPONDENT

Date of Decision: Jan. 19, 2019

Acts Referred:

- Code Of Civil Procedure, 1908 - Section 151, Order 7 Rule 11
- Rajasthan Rent Control Act, 2001 - Section 18, 18(1), 21, 28(1), 28(2), 28(3), 28(4)

Hon'ble Judges: Sangeet Lodha, J

Bench: Single Bench

Advocate: N.K. Rastogi, A.K. Babel

Final Decision: Disposed Off

Judgement

1. This petition is directed against order dt. 30.5.18 passed by the Rent Tribunal, Chittorgarh, whereby an application preferred by the petitioner under

Order VII Rule 11 read with Section 151 CPC and Section 21 of Rajasthan Rent Control Act, 2001 (for short "the Act"), seeking rejection of the rent

petition, has been dismissed.

2. The respondent-landlord filed a petition seeking eviction of the petitioner-tenant from a rented premises on the grounds of reasonable and bona tide

necessity, material alteration and causing substantial damage to the property. The respondent also claimed damages quantified at Rs. 16,00,000/- and

prayed that after adjustment of the security deposit, the petitioner-tenant may be directed to pay the remaining amount.

3. The petitioner preferred an application seeking rejection of the petition on the ground that the respondent while claiming damages a sum of Rs.

16,00,000/-, has not paid the ad valorem Court fees in terms of the provisions of Rajasthan Court Fees & Suit Valuation Act, 1961 and therefore, the rent petition is liable to be rejected. That apart, according to the petitioner, the claim for damages being not maintainable before the Rent Tribunal, the petition was liable to be rejected for this reason also.

4. The learned Rent Tribunal after due examination of the matter held that in view of provisions of Section 18 of the Act, the dispute raised regarding payment of damages being a matter connected with and ancillary to the dispute between the landlord and tenant, the petition filed before the Rent Tribunal is maintainable. However, the issue raised regarding the Court fee paid being insufficient though referred to by the Rent Tribunal in the order impugned, has not been decided. Hence, this petition.

5. A bare perusal of sub-section (1) of Section 18 of the Act makes it abundantly clear that in the areas to which the Act extends only the Rent

Tribunal and no Civil Courts have jurisdiction to hear and decide the petitions relating to dispute between landlord and tenant and matter connected

therewith and ancillary thereto filed under the provisions of the Act. Indisputably, the respondent-landlord has filed the petition seeking eviction inter

alia on the ground of tenant causing substantial damage to the property. The damage caused is quantified at Rs. 16,00,000/- and the decree is sought

for amount of damages after adjusting the amount of security deposit. Undoubtedly, the issue with regard to recovery of damages on account of the

substantial damage being caused to the premises is subject matter of the petition and is a matter directly connected with and ancillary to the dispute

raised between the landlord and tenant set out in the petition and thus, the Rent Tribunal has committed no error in holding that the petition preferred

for recovery of damages is maintainable before the Rent Tribunal. But then, the Rent Tribunal has erred in not deciding the issue raised with regard to

insufficiency of the Court fees. It is noticed that as per provisions of sub-section (1) of Section 28 of the Act except as provided in sub-sections (2),

(3) & (4), the Court fee payable on petitions, applications and appeals filed before the Tribunal would be the same as payable if suits, applications or

appeals were filed for the similar relief before the Civil Court and thus, the Rent Tribunal has erred in not examining the issue raised regarding

insufficiency of the Court fees in respect of the claim for damages, keeping in view the said provision.

6. In view of the discussion above, while not interfering with the order impugned passed by the Rent Tribunal, to the extent of the findings recorded

regarding the maintainability of the petition as framed before the Rent Tribunal, the matter is remitted to the Rent Tribunal to decide the issue with

regard to insufficiency of the Court fee raised by the petitioner-tenant, in accordance with law.

7. The petition stands disposed of accordingly. No order as to costs.