

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 6500/2024

Rakesh Sen S/o Late Shri Nanalal Ji Sen, Aged About 50 Years,
Resident Of 29-B, Haridas Ji Ki Magri, Udaipur (Raj.).

-----Petitioner

Versus

Smt. Ajab Bano W/o Shri Iqbal Hussain, C/o Nashi Electronics,
Natraj Hotel Wali Gali, Udaipur (Raj.).

-----Respondent

For Petitioner(s) : Mr. Sajjan Singh
For Respondent(s) : Mr. Tribhuvan Gupta

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

27/01/2025

1. Heard learned counsel for the parties.
2. The present writ petition has been filed against the order dated 31.01.2024, whereby, the appeal preferred by the respondent-Landlord has been allowed.
3. Briefly noted the facts of the present writ petition are that prior to the year 1995, the petitioner was given a shop on rent by the previous landlord. Thereafter, the property in question was purchased by the respondent in the year 1995. While the petitioner was undertaking his business activity from the shop in question, the respondent preferred an application before learned Rent Tribunal, Udaipur for his eviction. The application preferred by the respondent was dismissed vide order dated 27.09.2021. The order dated 27.09.2021 was assailed by the respondent by way of filing an appeal before learned Rent Appellate Tribunal, Udaipur. The learned Rent Appellate Tribunal, Udaipur, after

hearing learned counsel for the parties, allowed the same vide order dated 31.01.2024. Hence, the present writ petition has been filed.

4. Learned counsel for the petitioner vehemently submitted that the respondent is having no bonafide necessity of the rented premises as there are number of shops available with her and, therefore, learned Rent Tribunal, Udaipur has not committed any infirmity in rejecting the application preferred by the respondent. Learned counsel for the petitioner further submits that learned Rent Appellate Tribunal has committed an error while allowing the appeal preferred by the respondent. To buttress his contention, learned counsel for the petitioner has relied upon the following judgments :-

1. *Gendkanwar (Smt.) vs. LR's of Bhanwar Lal*,
2014(3)DNJ1151
2. *Shivshankara & Anr. vs. H.P. Vedavyasa Char*,
(2023) 0 AIR (SC) 1780
3. *M.M. Quasim vs. Manohar Lal Sharma*,
1982(1)RCJ 212.

He, therefore, prays that the writ petition may be allowed and the impugned order dated 31.01.2024 may be quashed and set aside.

5. *Per contra*, learned counsel for the respondent vehemently submitted that the order dated 31.01.2024 has rightly been passed by learned Rent Appellate Tribunal as the respondent is the landlord and she is in need of the shop in question for undertaking her business activities and that there are no other shops which can be used of by the respondent for undertaking her business activities. He, therefore, submits that learned Rent Appellate Tribunal, Udaipur has rightly appreciated the facts and, therefore, no interference in the impugned order is warranted by this Court.

6. I have considered the submissions made at the Bar and gone through the relevant record of the case.

7. The admitted position in the present case is that the petitioner is a tenant and the respondent is a landlord. The shop in question has been rented out by the respondent to the petitioner. Since the respondent felt need of the rented shop given to the petitioner for undertaking her business activities, therefore, the application for eviction of the petitioner from the shop in question was filed and learned Rent Tribunal has rejected such application. However, learned Rent Appellate Tribunal, Udaipur has correctly appreciated the facts submitted before it and has come to the conclusion that there is no other shop which is available to the respondent for undertaking her business activities. In the humble opinion of this Court, it is for the landlord to decide and take a call for how and when the rented premises is required to be used by the Owner of the Property i.e. the landlord. This Court is of the view that it is not within the domain of the tenant to suggest or to show that the landlord is not having the bonafide necessity for the rented premises. The necessity of a rented property for bonafide use is required to be adjudged from the perspective of the landlord and not from the perspective of the tenant.

8. The judgments relied upon by learned counsel for the petitioner are having no application in the present case as the facts and circumstances of the present case is totally different from the judgments relied upon by learned counsel for the petitioner.



9. In view of the discussions made above, I do not find any infirmity in the order passed by learned Rent Appellate Tribunal, Udaipur. The writ petition is dismissed being bereft of any merit.

10. The stay application and other pending applications, if any, also stand disposed of.

(VINIT KUMAR MATHUR),J

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