



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



S.B. Civil Writ Petition No.13813/2015

Shankar Lal S/o Late Shri Srawan Lal Sharma, 1848, Pulanderji
Ki Gali, Johari Bazar, Jaipur.

-----Petitioner

Versus

1. Jugal Kishore,
2. Babu Lal,
3. Ramesh Chand,
4. Govind Sharan,
All Son Of Late Shri Loon Karan, R/o House No. 1848,
Pulander Ji Ki Gali, Ram Lalaji Ka Rasta, Johari Bazar,
Jaipur.

-----Respondents

For Petitioner(s) : Mr. Lokesh Sharma with
Ms. Anzum Parveen
For Respondent(s) : Mr. Surendra Singh Shekhawat

JUSTICE ANOOP KUMAR DHAND

Order

22/04/2025

1. By way of filing this writ petition, a challenge has been led to the impugned order dated 20.08.2015 passed by Rent Tribunal, Jaipur (for short 'the Tribunal') by which the application submitted by the petitioner for taking his affidavit on record has been rejected by the Tribunal giving reference of Section 15 of the Rajasthan Rent Control Act, 2001 (for short 'the Act of 2001').
2. Learned counsel for the petitioner submits that as per Section 15 of the Act of 2001, the affidavit/documents are required to be filed along-with reply but the aforesaid provision is directory and not mandatory, as this issue has been decided by



the Division Bench of this Court in the case of **Ramesh Kumar Versus Chandu Lal & Another** while deciding **D.B. Civil Special Appeal No.1132/2008** on 14.01.2009. Learned counsel submits that overlooking the aforesaid judgment passed by the Division Bench of this Court in the case of **Ramesh Kumar** (supra), the Tribunal has refused to take the affidavit of the petitioner on the record on the technical count that the same was not submitted with the reply. Learned counsel submits that in light of the judgment passed by the Division Bench of this Court in the case of **Ramesh Kumar** (supra), the order dated 20.08.2015 is not sustainable in the eye of law and is liable to be quashed and set-aside.

3. *Per contra*, learned counsel for the respondents opposed the arguments raised by learned counsel for the petitioner, but he is not in a position to controvert the submissions made by counsel for the petitioner.

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

5. Perusal of the impugned order dated 20.08.2015 indicates that the petitioners submitted an application for taking his affidavit on the record, but the same was rejected by the Tribunal by giving reference of Section 15 of the Act of 2001 by holding that the affidavit was not submitted/enclosed by the petitioner with reply.

6. 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** (supra), 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."



7. 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".

8. 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.

9. Accordingly, the writ petition stands allowed. The Tribunal is directed to take affidavit of the petitioner on the record and after recording his evidence, decide the eviction application expeditiously as early as possible preferably within a period of one year from the date of receipt of certified copy of this order. The reasons for issuing such direction is that the eviction application is pending for adjudication since 2009.

10. Stay application as well as all applications (pending, if any) stand disposed of.

(ANOOP KUMAR DHAND),J

Karan/55

