

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

S.B. Civil Writ Petition No. 15633/2021

Asharaf Ali S/o Akbar Ali, Aged About 53 Years, Resident Of
Outside Bidasar Bari, Bikaner.

-----Petitioner

Versus

Smt. Saroj Rani W/o Kan Singh, Resident Of Inside Goga Gate,
Bikaner.

-----Respondent

For Petitioner(s)	:	Mr. OP Mehta Mr. VD Vaishnav
For Respondent(s)	:	-

JUSTICE DINESH MEHTA

Order

11/11/2021

1. Challenging the order dated 08.09.2021, passed by learned Appellate Rent Tribunal, Bikaner in Civil Appeal No.76/2014, Mr. Mehta, learned counsel for the petitioner invites Court's attention towards the order dated 04.02.2020, of the Appellate Tribunal whereby petitioner's application under order VI Rule 17 of the Code of Civil Procedure had been allowed. He further submits that vide order dated 27.08.2021, the Appellate Court though refused the permission to amend the appeal but had practically accepted the application by observing that the subsequent facts and the documents placed with application under Order XLI Rule 27 of the Code of Civil Procedure shall be considered at the time of final hearing of the appeal.

2. Having pointed out the above facts, learned counsel argues that the Appellate Court has rejected petitioner's appeal and his

application under order XLI Rule 27 of Code of Criminal Procedure, completely ignoring the facts which have been brought on record by way of two amendment applications under order VI Rule 17 of Code of Civil Procedure and the documents which have been brought on record by application under Order XLI Rule 27 of the Code of Civil Procedure.

3. Matter requires consideration.

4. Issue notice. Issue notice of stay application also.

5. Meanwhile, the certificate or recovery of possession issued pursuant to decree dated 11.03.2014 passed by learned Rent Tribunal, Bikaner in Civil Original Suit No.43/2008, shall not be given effect to and the petitioner shall not be evicted from the premises in question.

(DINESH MEHTA),J

128-pooja/-



सत्यमेव जयते