

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 7592/2026

M/s Bhanu Farms Ltd., A Company Incorporated Under Companies Act Act, 1956 Having Its Registered At 31, Chorangee Lane Kolkata, Through Its Director Mr. Anant Bangur.

-----Petitioner/Appellant/Non-Applicant-Tenant
Versus

M/s Kalpit Sales Pvt. Ltd., Through Authorised Representative Mr. Deepak Singh, 82, Ayodhya Nagar, Triveni Nagar, Gopalpura Bye Pass, Jaipur-302018

-----Respondent/Applicant/Landowner

For Petitioner(s)	:	Mr. Ratnesh Kumar Sharma
For Respondent(s)	:	Mr. Abhimanyu Singh Yaduvanshi with Mr. Jai Khudia

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment

Date of hearing and conclusion of arguments	21.05.2026
Date on which the judgment was reserved	21.05.2026
Whether the full judgment or only the operative part is pronounced	Full Judgment
Date of pronouncement	27.05.2026

1. The present civil writ petition has been filed assailing the order dated 28.03.2026, passed by the learned Appellate Rent Tribunal, Jaipur Metropolitan-I, Jaipur (hereinafter referred to as 'the learned Appellate Tribunal') in Civil Misc. Appeal No.10/2026, whereby the appeal preferred by the petitioner against the order dated 16.03.2026 passed by the learned Rent Tribunal dismissing the application under Order 9 Rule 13 CPC, came to be dismissed.
2. The brief facts giving rise to the present writ petition are that the petitioner-company and the respondent-company entered into

agreement for renting out a cold storage. On account of non-payment of rent, recovery of rent proceedings were initiated before the learned District & Sessions Judge No.14, Jaipur Metropolitan-I, Jaipur, seeking recovery of rent and other consequential reliefs in the capacity of landlord.

2.1 During the pendency of the said proceedings, the learned Civil Court, upon consideration of the nature of dispute and the provisions of the Rajasthan Rent Control Act, 2001 (hereinafter referred to as 'the Act of 2001'), vide order dated 20.09.2018, exercised powers under Order 7 Rule 10-A CPC and returned the plaint for presentation before the competent Rent Tribunal having jurisdiction to adjudicate the dispute. The said order was admittedly passed in the presence of both the parties and while returning the plaint, the learned Court specifically directed the parties to appear before the learned Rent Tribunal on 12.10.2018.

2.2 In compliance of the order dated 20.09.2018, the respondent presented the original plaint before the learned Rent Tribunal along with an application under Section 18 of the Act of 2001 in the prescribed format on 09.10.2018. The matter was accordingly registered before the learned Rent Tribunal and was ordered to be listed on 12.10.2018, the very same date already fixed by the learned Civil Court while returning the plaint.

2.3 The record further revealed that on 12.10.2018, counsel appearing on behalf of the petitioner-company, namely Ms. Vimmi Joshi, Advocate, appeared before the learned Rent Tribunal, obtained copies of the plaint and sought time for filing *vakalatnama* and reply. Thereafter, on 03.11.2018, an application

seeking dismissal of the suit proceedings was also filed on behalf of the petitioner before the learned Rent Tribunal. However, subsequent thereto, neither the petitioner nor its counsel remained present before the learned Rent Tribunal despite repeated opportunities. Ultimately, after continuous absence on several dates of hearing, the learned Rent Tribunal proceeded *ex-parte* against the petitioner vide order dated 27.04.2019 and thereafter passed the final *ex-parte* judgment and decree on 29.11.2019.

2.4 Thereafter, upon initiation of execution proceedings and receipt of notices therein, the petitioner filed an application under Order 9 Rule 13 CPC before the learned Rent Tribunal seeking setting aside of the *ex-parte* judgment and decree dated 29.11.2019. The said application came to be dismissed by the learned Rent Tribunal vide order dated 16.03.2026 after recording findings that the petitioner had complete knowledge of the proceedings and had failed to show sufficient cause for non-appearance.

2.5 Aggrieved against the rejection of the application under Order 9 Rule 13 CPC, the petitioner preferred an appeal before the learned Appellate Rent Tribunal, Jaipur Metropolitan-I, Jaipur, which also came to be dismissed vide judgment dated 28.03.2026 affirming the findings recorded by the learned Rent Tribunal.

3. Aggrieved by the order dated 28.03.2026, the petitioner has preferred the present writ petition before this Court.

4. Learned counsel for the petitioner submitted that once the plaint was returned by the learned Civil Court and proceedings

were instituted before the learned Rent Tribunal under Section 18 of the Act of 2001, the proceedings before the learned Rent Tribunal constituted fresh proceedings independent of the earlier suit proceedings. It is thus contended that issuance of notice under Section 14 of the Act of 2001 was mandatory before proceeding further in the matter and in absence thereof, the entire proceedings conducted by the learned Rent Tribunal stand vitiated.

4.1 Learned counsel for the petitioner further submitted that mere appearance of counsel before the learned Rent Tribunal pursuant to the order passed under Order 7 Rule 10-A CPC would not dispense with the statutory requirement of issuance of fresh notice under Section 14 of the Act of 2001. It is argued that the learned Rent Tribunal could not have proceeded further merely on the basis of the order returning the plaint and the proceedings conducted thereafter are contrary to the mandatory procedure prescribed under the Act of 2001.

4.2 Learned counsel for the petitioner relied upon the judgment passed by the Hon'ble Apex Court in the case of ***M/S. EXL Careers and Another vs Frankfinn Aviation Services Private Limited***; Civil Appeal No(s). 2904 of 2020 (Decided on 05.08.2020).

5. Per contra, learned counsel for the respondent submitted that the proceedings before the learned Rent Tribunal were not fresh proceedings but were continuation of the earlier proceedings after return of plaint under Order 7 Rule 10-A CPC. It is submitted that once both the parties were specifically directed by the learned Civil Court to appear before the learned Rent Tribunal on

12.10.2018, no separate or fresh notice was required to be issued under Section 14 of the Act of 2001.

5.1 Learned counsel for the respondent further submitted that the conduct of the petitioner itself demonstrates complete knowledge of the proceedings inasmuch as counsel for the petitioner Ms. Vimmi Joshi admittedly appeared before the learned Rent Tribunal on 12.10.2018, obtained copies of the plaint and thereafter even filed an application seeking dismissal of the suit proceedings on 03.11.2018. It is therefore contended that after having participated in the proceedings, the petitioner cannot now turn around and contend that no notice was served upon him.

5.2 Learned counsel for the respondent submitted that despite appearance and participation initially, neither the petitioner nor his counsel remained present before the learned Rent Tribunal thereafter, compelling the Tribunal to proceed *ex-parte*. It is submitted that no plausible or sufficient explanation has been furnished by the petitioner for remaining absent after 03.11.2018 and therefore both the Courts below have rightly rejected the application under Order 9 Rule 13 CPC.

5.3 Learned counsel for the respondent also submitted that the petitioner, in the present writ petition, has challenged only the appellate order dated 28.03.2026 and has not independently assailed the original order dated 16.03.2026 passed by the learned Rent Tribunal rejecting the application under Order 9 Rule 13 CPC. Therefore, once the original order has attained finality, no relief can be granted merely by challenging the appellate order.

5.4 Learned counsel for the respondent lastly submitted that both the learned Rent Tribunal as well as the learned Appellate Tribunal have recorded concurrent findings of fact against the petitioner after due appreciation of the material available on record and the scope of interference by this Court under Article 227 of the Constitution of India is extremely limited. Hence, prayer has been made for dismissal of the writ petition.

6. Heard learned counsel for both the parties and perused the material available on record.

7. This Court on perusal of the record finds that the learned Civil Court while exercising powers under Order 7 Rule 10-A CPC had returned the plaint for presentation before the competent learned Rent Tribunal and while doing so had specifically directed both the parties to appear before the learned Rent Tribunal on 12.10.2018. The said order was passed in presence of the parties and was never challenged by the petitioner.

8. This Court further observes that both the Courts below have categorically held that the application under Section 18 of the Act of 2001 was filed along with the original suit so as to bring the proceedings in consonance with the provisions of the Act of 2001. Further, the learned Trial Court, while exercising powers under Order 7 Rule 10-A CPC in the presence of the petitioner, had returned back the plaint to be presented before the learned Rent Tribunal and both the parties were directed to appear on 12.10.2018. The counsel for the petitioner appeared on 12.10.2018 and obtained copies of the suit. It has further been held that thereafter an application for dismissal of the suit was

filed by the counsel for the petitioner on 03.11.2018. Lastly, both the Courts below have also found that thereafter neither the petitioner nor his counsel remained present, whereupon *ex-parte* proceedings were initiated and the final judgment was passed on 29.11.2019.

9. With regard to the argument of learned counsel for the petitioner that a fresh notice under Section 14 of the Act of 2001 ought to have been issued, this Court finds that the proceedings under Section 18 of the Act of 2001 were not fresh proceedings but were in continuation of the proceedings arising out of the returned plaint. The record further reveals that in compliance of the said order, the respondent presented the plaint before the learned Rent Tribunal along with an application under Section 18 of the Act of 2001 in the prescribed format. The learned Rent Tribunal merely proceeded with the matter from the stage at which the plaint had been returned by the learned Civil Court. Thus, the proceedings before the learned Rent Tribunal cannot be said to be *de novo* or fresh proceedings independent of the original proceedings.

10. This Court further finds that the contention raised by the petitioner regarding non-issuance of fresh notice under Section 14 of the Act of 2001 is devoid of merit for the additional reason that the petitioner admittedly appeared before the learned Rent Tribunal through counsel on 12.10.2018 pursuant to the order passed under Order 7 Rule 10-A CPC. Not only this, counsel for the petitioner obtained copies of the plaint and thereafter actively participated in the proceedings by filing an application seeking

dismissal of the suit on 03.11.2018. This clearly demonstrates that the petitioner had complete knowledge of the pendency of the proceedings before the learned Rent Tribunal. No sufficient reason has been assigned by the petitioner for his non-appearance after filing of the application dated 03.11.2018.

11. Once the petitioner had appeared before the learned Rent Tribunal in pursuance of the judicial order passed by the learned Civil Court and had participated in the proceedings, the petitioner cannot subsequently contend that he had no knowledge of the proceedings or that fresh statutory notice was required to be issued. The purpose of notice is essentially to ensure knowledge of pendency of proceedings and opportunity of hearing, both of which stood fully satisfied in the present case.

12. This Court is also of the firm view that the petitioner has not challenged the order dated 16.03.2026 in the present writ petition and has merely challenged the order dated 28.03.2026. Once the original order has not been challenged, the same has attained finality and, therefore, merely challenging the order dated 28.03.2026 is not maintainable.

13. So far as reliance placed by learned counsel for the petitioner on the judgment in the case of **Frankfinn Aviation Services Private Limited** (*supra*) is concerned, this Court finds that the said judgment does not advance the case of the petitioner and is clearly distinguishable on facts. In the said case, the Hon'ble Apex Court was dealing with a situation where the defendant had not been duly served in accordance with law and the Court emphasized the mandatory nature of service of summons before

proceeding *ex-parte*. The Hon'ble Supreme Court observed that proper service of summons is not an empty formality and any decree passed without ensuring due service would be violative of the principles of natural justice. The Hon'ble Apex Court further held that where the defendant had no effective notice of the proceedings, the *ex-parte* decree could not be sustained merely on technical considerations.

14. However, the facts of the present case stand on an entirely different footing. In the instant matter, the learned Civil Court, while returning the plaint under Order 7 Rule 10-A CPC vide order dated 20.09.2018, had specifically directed both the parties to appear before the learned Rent Tribunal on 12.10.2018. Admittedly, in pursuance thereof, counsel for the petitioner appeared before the learned Rent Tribunal, obtained copies of the plaint and the application under Section 18 of the Act of 2001 and thereafter even filed an application for dismissal of the suit proceedings on 03.11.2018. Thus, unlike the facts before the Hon'ble Supreme Court in the case of **Frankfinn Aviation Services Private Limited** (*supra*), the petitioner herein was not only fully aware of the pendency of the proceedings but had actively participated in the same after transfer of the matter before the learned Rent Tribunal.

15. The record further reveals that despite having complete knowledge of the proceedings, the petitioner and his counsel consciously abstained from appearing before the learned Rent Tribunal thereafter, resulting in *ex-parte* proceedings being initiated. Therefore, the issue in the present case is not one of

absence of notice or lack of knowledge of proceedings, but rather deliberate non-participation despite due knowledge. Consequently, the ratio laid down in the case of **Frankfinn Aviation Services Private Limited** (*supra*), which was rendered in the peculiar facts involving absence of proper service and denial of opportunity, cannot be mechanically applied to the present case.

16. This Court is therefore of the considered view that the reliance placed by learned counsel for the petitioner upon the judgment in the case of **Frankfinn Aviation Services Private Limited** (*supra*) is misconceived and the same is clearly distinguishable on facts as well as on the legal controversy involved in the present proceedings.

17. In view of above observations, this Court finds no reason to interfere with the concurrent findings recorded by the two Courts below while exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

18. With the above observations, the present civil writ petition stands **dismissed**.

19. Pending application(s), if any, stands disposed of.

(BIPIN GUPTA),J