

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 7367/2025

Aditya Raj Son Of Shri Dipendra Singh Kama, Aged About 27 Years, Resident Of 95, Anand Bagh, Kama House, Ajmer Road, Jaipur Through Power Of Attorney Dipendra Singh Kama, Son Of Late Shri Shiv Singh Kama, Aged About 55 Years, Resident Of 95, Anand Bagh, Kama House, Ajmer Road, Jaipur (Rajasthan)

-----Applicant/Petitioner

Versus

1 Bhupendra Singh Son Of Late Major Shiv Singh Ji, Resident Of 95, Anand Bagh, Kama House, Ajmer Road, Jaipur.

2 Yuvraj Sigh Son Of Shri Bhupendra Singh, Resident Of 95, Anand Bagh, Kama House, Ajmer Road, Jaipur.

-----Original Applicants/Respondents

3 Purshotum Das Gupta Son Of Shri Radhey Shyam Gupta, Proprietor Shree Ji Agro Agencies, Shop No. 95, Anand Bagh, Kama House, Ajmer Road, Jaipur.

-----Tenant/Respondents

For Petitioner(s) : Mr. Ashivani Kumar Chobisa
For Respondent(s) : Mr. Mamoon Khalid

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

Reportable

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 writ petition has been filed assailing the order dated 02.04.2025, passed by learned Rent Tribunal, No. 2, Jaipur

Metropolitan-I, in Original Application No. 844/2013, whereby the application filed by the applicant-petitioner under Order I Rule 10 CPC has been dismissed.

2.The brief facts of the case are that respondent Nos. 1 and 2 instituted an application under Sections 6 and 9 of the Rajasthan Rent Control Act, 2001 (hereinafter referred to as the "RRCA, 2001"), seeking eviction of the tenant on the grounds of default in payment of rent and denial of title. In the application, it was averred that after the demise of Late Major Shiv Singh Ji, the brother of respondent No.1, namely Dipendra Singh, forged a Will purportedly executed by Major Shiv Singh Ji in favour of Hans Raj Kumari and Aditya Raj Singh, and thereafter filed a probate application before the learned District Judge, which came to be rejected vide order dated 28.04.2012.

2.1 In response thereto, the tenant-defendant filed a detailed reply denying the averments made in the eviction application. It was specifically pleaded that the suit property had been taken on rent from Aditya Raj (minor) through his natural guardian, Hans Raj Kumari. The tenant further contended that the property originally belonged to Major Shiv Singh Ji and, after his death, the tenancy continued under Aditya Raj through his mother and natural guardian, Hans Raj Kumari.

2.2 Subsequently, the applicant-petitioner filed an application under Section 21 of the RRCA, 2001 read with Order I Rule 10 CPC, contending that the original rent petition had been instituted on incorrect facts. It was averred that the disputed property was owned by the applicant-petitioner and that the defendant,

Purshotum Das, was his tenant. It was further asserted that Major Shiv Singh Ji had executed a Will in favour of the applicant-petitioner and, consequently, the applicant-petitioner through his natural guardian, Hans Raj Kumari, was the rightful owner of the property. The petitioner also pleaded that his impleadment was necessary for bringing the true and correct facts before the Tribunal and for proper adjudication of the dispute.

2.3 A detailed reply to the said application was filed by the original applicants in rent application, wherein it was contended that the alleged Will dated 29.01.2000 had not been accepted by any competent Court and, therefore, the applicant-petitioner had no right, title, or interest in the property. It was further pleaded that Purshotum Das was neither the tenant of the applicant-petitioner nor had the petitioner ever received rent from him or possessed any lawful entitlement to receive such rent.

2.4 After hearing the parties, the learned Rent Tribunal, vide order dated 02.04.2025, rejected the application filed by the applicant-petitioner.

2.5 Aggrieved by the aforesaid order dated 02.04.2025, the applicant-petitioner has preferred the present writ petition before this Hon'ble Court.

3. Learned counsel for the petitioner submitted that the order dated 02.04.2025 is patently illegal and suffers from errors apparent on the face of the record as well as in law. He further submitted that the learned Rent Tribunal committed a gross error of law in rejecting the application without properly appreciating the scope and ambit of Order I Rule 10 CPC. Learned counsel

contended that it is a well-settled principle of law that if, at any stage of the proceedings, the presence of a party is found necessary for effective and proper adjudication of the dispute, such party ought to be impleaded as a necessary and proper party.

3.1 Learned counsel for the petitioner further argued that the learned Tribunal erred in rejecting the application solely on the ground that the Will dated 29.01.2000 had not been accepted by the competent Court and that judgment in this regard had already been passed on 28.04.2012. He submitted that an appeal against the judgment dated 28.04.2012 has already been preferred before this Hon'ble Court, wherein an interim order has also been passed, and therefore the validity and effect of the said judgment is still sub-judice and pending adjudication.

3.2 Learned counsel for the petitioner further contended that the learned Tribunal failed to appreciate that the original applicants are themselves claiming rights over the disputed property on the basis of another Will executed subsequently in point of time. He submitted that the very foundation of the judgment and decree dated 28.04.2012 was the existence of the subsequent Will. He also argued that whereas the alleged subsequent Will relied upon by the original applicants is an unregistered document, the Will in favour of the petitioner is a registered Will, thereby lending greater authenticity and credibility to the petitioner's claim.

3.3 Learned counsel for the petitioner further submitted that the learned Tribunal committed a grave error in holding that the question of ownership was not required to be adjudicated and that

only the relationship of landlord and tenant was relevant for the purposes of the proceedings. He contended that since both the petitioner as well as the original applicants are asserting ownership rights over the disputed property, the presence of the petitioner is indispensable for complete and effective adjudication of the controversy. Learned counsel emphasized that the petitioner is not only a necessary party but also a proper party, whose impleadment would assist the Court in arriving at a just and proper decision.

3.4 In view of the aforesaid submissions, learned counsel for the petitioner prayed that the present writ petition be allowed, the order dated 02.04.2025 be quashed and set aside, and the application filed under Order I Rule 10 CPC be allowed.

4. Per contra, learned counsel for the respondents submitted that the application filed by the applicant-petitioner is wholly misconceived, false, and not maintainable either in law or on facts. It was further contended that the petitioner has deliberately suppressed material facts and approached this Hon'ble Court with unclean hands, in collusion with the respondent-tenant, Purshottam Das, with the sole intention of deriving unlawful benefits and delaying the proceedings.

4.1 Learned counsel for the respondents further submitted that the alleged Will dated 29.01.2000, relied upon by the applicant-petitioner, has already been declared invalid by the competent Court and, therefore, the applicant-petitioner has no right, title, interest, or connection whatsoever with the disputed property. It was argued that the disputed premises were originally let out by

Late Major Shiv Singh Ji and, after his demise, the ownership rights validly devolved upon respondent No.1 by virtue of the Will dated 07.03.2001, which has already been upheld by the competent Court.

4.2 Learned counsel for the respondents further contended that the relationship of landlord and tenant exists solely between the original applicants and the respondent-defendant, who himself admitted in his reply that the tenancy had originally been created by Late Major Shiv Singh Ji. In such circumstances, the applicant-petitioner is neither a necessary party nor a proper party to the proceedings and has no locus standi to seek impleadment under Order I Rule 10 CPC or Section 21 of the RRCA, 2001.

4.3 Accordingly, learned counsel for the respondents prayed that the present writ petition deserves to be dismissed and the order dated 02.04.2025 passed by the learned Rent Tribunal be upheld.

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

5.1 Before adverting to the merits of the case, it would be apposite to examine the scope of interference available to this Court while exercising jurisdiction under Article 227 of the Constitution of India. It is well settled that the supervisory jurisdiction of this Court under Article 227 is extremely limited in nature.

5.2 The said position of law has been reiterated time and again by the Hon'ble Apex Court in the judgments of ***Sadhana Lodh vs National Insurance Company Limited & Anr.***; 2003 (3) SCC 524 and ***Ranjeet Singh vs Ravi Prakash***; 2004 (3) SCC 682

wherein the Court has held that the interference under Article 227 of the Constitution of India is warranted only in cases where there is flagrant violation of the fundamental principles of law or justice, or where there is a patent error, not requiring elaborate examination. Thus, the Court ought not to re-appreciate or re-evaluate evidence as if it were exercising appellate jurisdiction. Hence, the Court is vested with limited role and cannot interfere in findings of fact unless the same are shown to be perverse, patently illegal or vitiated by a jurisdictional error. Keeping these principles in mind, the submissions advanced by learned counsel for both the parties have been considered.

6. Before adverting to the rival submissions advanced on behalf of the parties and the principal question arising for consideration in the present matter, it would be appropriate to reproduce the relevant provisions of Order I Rule 10 CPC, for the sake of convenience and ready reference:

"10. Suit in name of wrong plaintiff.—(1).....

(2) Court may strike out or add parties.—*The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.*

(3)....."

6.1 Order I Rule 10 CPC cannot be interpreted or applied in isolation. Its scope and applicability are intrinsically connected with the principles embodied under Order I Rule 1 CPC relating to joinder of parties. A conjoint reading of the aforesaid provisions makes it clear that a party may be added in a proceeding only when the conditions contemplated under the Code are duly satisfied and such impleadment is necessary for complete and effective adjudication of the controversy involved. Mere existence of a claim or an independent interest in the subject matter is not sufficient to confer a right of impleadment.

6.2 The Court, while considering an application under Order I Rule 10 CPC, is required to examine whether the presence of the proposed party is necessary for effective and complete adjudication of the issues directly involved in the proceedings; whether any legally enforceable right of such party is likely to be directly affected by the outcome of the litigation; whether any effective adjudication can be rendered in absence of such party; and whether the proposed impleadment would assist the Court in resolving the controversy already forming subject matter of the proceedings. Simultaneously, the Court is also required to ensure that the impleadment does not enlarge the scope of the original proceedings, introduce independent and collateral disputes, or compel the adjudicating authority to decide issues beyond its limited jurisdiction. Further, this Court believes that '*Lis pendens nihil innovetur*' which means

pendency of the lis does not permit introduction of extraneous controversies.

6.3 The provisions of Order I Rule 10 CPC are also systematically linked with the requirements of Order I Rule 1 CPC. Thus, where the relief claimed arises out of the same transaction and common questions of law and fact are involved, joinder of parties may be permissible. However, where the proposed impleadment introduces an altogether independent and disputed cause of action requiring adjudication beyond the scope of the original proceedings, the requirements of Order I Rule 10 CPC cannot be said to be satisfied. This Court believes that '*Quando aliquid prohibetur ex directo, prohibetur et per obliquum*' which means that what cannot be done directly cannot be permitted indirectly. A similar view has been taken by a Co-ordinate Bench of this Court in ***Virendra Kumar Jain and Ors. Vs. State of Rajasthan and Ors.*** reported in ***2018 Supreme(Raj) 115***, wherein the issue before the Court was whether questions relating to title and ownership of the property could be adjudicated by the Rent Tribunal under the Rajasthan Rent Control Act, 2001. The Co-ordinate Bench held that the Rent Tribunal lacks jurisdiction to determine disputes pertaining to title or ownership of immovable property, as such questions fall beyond the scope and ambit of proceedings contemplated under the Rajasthan Rent Control Act, 2001.

6.4 In the case of ***Bansraj Laltaprasad Mishra v. Stanter Parker Jones***, reported in ***(2006) 3 SCC 91***, the Hon'ble

Supreme Court held that where a tenant is inducted into possession by a landlord, permitting such tenant to subsequently dispute the landlord's title at the inception of the tenancy would create serious uncertainty and confusion in the landlord-tenant relationship. The Court observed that, to prevent such misuse and to preserve the sanctity of the relationship, the legislature has incorporated the equitable principle of estoppel. The relevant portion of the judgment reads as follows:

"13. The underlying policy of Section 116 is that where a person has been brought into possession as a tenant by the landlord and if that tenant is permitted to question the title of the landlord at the time of the settlement, then that will give rise to extreme confusion in the matter of relationship of the landlord and tenant and so the equitable principle of estoppel has been incorporated by the legislature in the said section.

14. The principle of estoppel arising from the contract of tenancy is based upon a healthy and salutary principle of law and justice that a tenant who could not have got possession but for his contract of tenancy admitting the right of the landlord should not be allowed to launch his landlord in some inequitable situation taking undue advantage of the possession that he got and any probable defect in the title of his landlord. It is on account of such a contract of tenancy and as a result of the tenant's entry into possession on the admission of the landlord's title that the principle of estoppel is attracted.

15. Section 116 enumerates the principle of estoppel which is merely an extension of the principle that no

person is allowed to approbate and reprobate at the same time."

(Emphasis supplied)

6.5 In the case of ***Tribhuvanshankar v. Amrutlal***, reported in **(2014) 2 SCC 788**, the Hon'ble Supreme Court reiterated the limited scope of inquiry in eviction proceedings arising out of landlord-tenant relationships, by relying on *Ranbir Singh v. Asharfi Lal*, (1995) 6 SCC 580. The question of title cannot be adjudicated conclusively in eviction proceedings, which remain fundamentally limited to the existence and validity of the landlord-tenant relationship. The relevant paragraph of the judgment are reproduced hereinbelow:-

"28. At this juncture, we may fruitfully refer to the principles stated in Ranbir Singh v. Asharfi Lal [(1995) 6 SCC 580]. In the said case the Court was dealing with the case instituted by the landlord under the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 for eviction of the tenant who had disputed the title and the High Court had set aside the judgment and decree of the courts below and dismissed the suit of the plaintiff seeking eviction. While advertng to the issue of title the Court in Ranbir Singh [(1995) 6 SCC 580] ruled that in a case where a plaintiff institutes a suit for eviction of his tenant based on the relationship of the landlord and tenant, the scope of the suit is very much limited in which a question of title cannot be gone into because the suit of the plaintiff would be dismissed even if he succeeds in proving his title but fails to establish the privity of contract of tenancy. In a suit for eviction based on such relationship the court has only to decide whether the defendant is the tenant of the plaintiff or not, though the question of title if

disputed, may incidentally be gone into, in connection with the primary question for determining the main question about the relationship between the litigating parties.

29. In the said case the learned Judges referred to the authority in *LIC v. India Automobiles & Co.* [(1990) 4 SCC 286] wherein the Court had observed that: (*Ranbir Singh case* [(1995) 6 SCC 580] , SCC pp. 585-86, para 9)

"9. ... in a suit for eviction between the landlord and tenant, the Court will take only a prima facie decision on the collateral issue as to whether the applicant was landlord. If the Court finds existence of relationship of landlord and tenant between the parties it will have to pass a decree in accordance with law. It has been further observed therein that all that the Court has to do is to satisfy itself that the person seeking eviction is a landlord, who has prima facie right to receive the rent of the property in question. In order to decide whether denial of landlord's title by the tenant is bona fide the Court may have to go into tenant's contention on the issue but the Court is not to decide the question of title finally as the Court has to see whether the tenant's denial of title of the landlord is bona fide in the circumstances of the case."

(Emphasis supplied)

6.6 Further, in ***Kanaklata Das v. Naba Kumar Das***, reported in **(2018) 2 SCC 352**, the Hon'ble Supreme Court held that in a suit for eviction instituted by a landlord against a tenant, the necessary parties are confined to the landlord and the tenant alone. The Court further clarified that questions relating to title over the suit property are not germane to the adjudication of an

eviction dispute, which is essentially based on the existence of the landlord-tenant relationship and the grounds of eviction pleaded thereunder. The relevant paragraph of the judgment are reproduced hereinbelow:-

"11.1. First, in an eviction suit filed by the plaintiff (landlord) against the defendant (tenant) under the State Rent Act, the landlord and tenant are the only necessary parties. In other words, in a tenancy suit, only two persons are necessary parties for the decision of the suit, namely, the landlord and the tenant.

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11.3. Third, the question of title to the suit premises is not germane for the decision of the eviction suit. The reason being, if the landlord fails to prove his title to the suit premises but proves the existence of relationship of the landlord and tenant in relation to the suit premises and further proves existence of any ground on which the eviction is sought under the Tenancy Act, the eviction suit succeeds. Conversely, if the landlord proves his title to the suit premises but fails to prove the existence of relationship of the landlord and tenant in relation to the suit premises, the eviction suit fails. (See Ranbir Singh v. Asharfi Lal [Ranbir Singh v. Asharfi Lal, (1995) 6 SCC 580].

11.4. Fourth, the plaintiff being a dominus litis cannot be compelled to make any third person a party to the suit, be that a plaintiff or the defendant, against his wish unless such person is able to prove that he is a necessary party to the suit and without his presence, the suit cannot proceed and nor can be decided effectively. In other words, no person can compel the plaintiff to allow such person to become the co-plaintiff or defendant in the suit. It is more so when such person is unable to show as to how he is a necessary or proper

party to the suit and how without his presence, the suit can neither proceed and nor it can be decided or how his presence is necessary for the effective decision of the suit. (See Ruma Chakraborty v. Sudha Rani Banerjee [Ruma Chakraborty v. Sudha Rani Banerjee, (2005) 8 SCC 140].

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11.6. Sixth, if there are co-owners or co-landlords of the suit premises then any co-owner or co-landlord can file a suit for eviction against the tenant. In other words, it is not necessary that all the owners/landlords should join in filing the eviction suit against the tenant. (See Kasthuri Radhakrishnan v. M. Chinniyan [Kasthuri Radhakrishnan v. M. Chinniyan, (2016) 3 SCC 296 : (2016) 2 SCC (Civ) 331].

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13. In our considered opinion, Respondent 1, who claims to be the co-sharer or/and co-owner with the plaintiff-appellants herein of the suit property is neither a necessary and nor a proper party in the eviction suit of the appellants against Respondents 2 to 5. In other words, such eviction suit can be decreed or dismissed on merits even without the impleadment of Respondent 1."

6.7 Reverting to the facts of the present case and applying the principles laid down by the Hon'ble Supreme Court in the judgments referred to hereinabove, it becomes evident that disputes relating to title, ownership, or determination of shares amongst alleged co-owners cannot be adjudicated within the limited scope of a landlord-tenant relationship, particularly in proceedings arising out of an eviction petition.

6.8 In the present matter, the proceedings arise out of an eviction petition instituted under the Rajasthan Rent Control Act, 2001.

The jurisdiction of the learned Rent Tribunal under the Act is confined to adjudication of disputes relating to the relationship of landlord and tenant and the rights incidental thereto. The learned Rent Tribunal is not vested with jurisdiction to adjudicate complicated questions relating to title or ownership of immovable property.

6.9 Upon consideration of the material available on record, this Court finds that the applicant-petitioner sought impleadment in the proceedings on the assertion that the rented premises belongs to him by virtue of a Will dated 29.01.2000. However, the record itself contains a certified copy of the judgment and order dated 28.04.2012 passed by the learned District Judge, Jaipur Metropolitan in Miscellaneous Civil Probate Petition No.242/2001, whereby the probate petition based on the said Will dated 29.01.2000 came to be dismissed. Thus, the very foundation of the claim set up by the applicant-petitioner already stands negated by a competent Court of law.

6.10 The learned Rent Tribunal, while rejecting the application filed under Section 21 of the Rajasthan Rent Control Act read with Order I Rule 10 and Section 151 CPC, has rightly observed that the applicant-petitioner failed to establish even a prima facie enforceable right in respect of the disputed property so as to warrant his impleadment in the present proceedings. The learned Rent Tribunal further observed that permitting the applicant-petitioner to be impleaded on the basis of a disputed claim of ownership would unnecessarily enlarge the scope of the rent proceedings and convert the same into a title dispute, which falls

beyond the limited jurisdiction contemplated under the Rajasthan Rent Control Act, 2001. It is against the settled principle governing disposition of rent suits, that the cause of action cannot be enlarged so as to alter the scope of a rent suit to a title suit. Ex-hypothesi, no party can be impleaded who seeks to bring in a cause of action that would ultimately convert the rent suit into a title suit. This position of the law is beyond cavil, going by consistent authority.

6.11 This Court finds no infirmity in the aforesaid reasoning assigned by the learned Rent Tribunal. The applicant-petitioner seeks impleadment on the basis of an alleged ownership claim founded upon a disputed Will. Acceptance of such application would necessarily require adjudication upon rival claims of ownership, validity of competing Wills, and determination of title over the disputed property. Such issues clearly travel beyond the summary and limited jurisdiction of the Rent Tribunal.

6.12 This Court further observes that the applicant in original rent application has pleaded that respondent No.3 is his tenant and, therefore, the burden to establish the existence of a landlord-tenant relationship squarely lies upon the applicant in original rent application before the competent forum. No relief has been claimed either against the applicant-petitioner or in his favour in the present proceedings. Therefore, the applicant-petitioner can neither be treated as a necessary party nor as a proper party for adjudication of the controversy involved in the eviction proceedings.

6.13 Further, permitting such impleadment would inevitably result in multiplicity of issues and delay the expeditious disposal of the rent petition, which would be contrary to the legislative intent underlying the Rajasthan Rent Control Act, 2001 enacted for speedy adjudication of landlord-tenant disputes. The applicant-petitioner, if so advised, remains at liberty to avail appropriate remedies before the competent civil Court for declaration and enforcement of his alleged rights; however, he cannot be permitted to indirectly seek adjudication of title in collateral rent proceedings.

6.14 This Court also finds that the plaintiff is the *dominus litis* and no individual can compel the plaintiff to pursue proceedings against a particular person against his wishes. The Hon'ble Apex Court in ***Nak Engineering Company Pvt. Ltd. Vs. Tarun Keshrichand Shah and Ors.*** Reported in **2026 INSC 8** has reiterated that the party instituting the suit is the *dominus litis* and it is his prerogative to choose his adversaries. The relevant observations read as under:

"39. This apart, the respondent Nos.1 and 2 who have instituted the suit are dominus litis and it is for them to choose their adversaries. If they do not array the proper and necessary parties to the suit, they do it at their own risk. However, they cannot be compelled to add a party to defend a suit against their wishes. The decree, if any, passed in the suit would be binding only between the parties to the suit and would not infringe upon any right of a third party, much less of the appellant that is not a party to the suit."

6.15 In view of the aforesaid discussion, this Court fully concurs with the findings and observations recorded by the learned Rent Tribunal and is of the considered opinion that the application filed by the applicant-petitioner under Section 21 of the Rajasthan Rent Control Act, 2001 read with Order I Rule 10 and Section 151 CPC has rightly been rejected, being devoid of merit.

6.16 Accordingly, this Court finds no jurisdictional error, illegality, perversity, or patent infirmity in the impugned order dated 02.04.2025 so as to warrant interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Consequently, the present writ petition being devoid of merit stands **dismissed**.

6.17 Pending application(s), if any, stand disposed of.

(BIPIN GUPTA),J