



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



S.B. Civil Writ Petition No. 9254/2024

CNR: RJHC020458042024 | URN: CW / 18829U / 2024

Akshat Singh @ Jhamman Singh S/o Deewan Singh, R/o 10-C-7,
R.C. Vyas Colony, Bhilwada, Rajasthan.

-----Petitioner

Versus

Ravindra Kumar Sharma S/o Ramkhiladi Sharma, R/o F-159,
Vaishali Nagar, Jaipur, Rajasthan.

-----Respondent

For Petitioner(s)	:	None present
For Respondent(s)	:	Respondent present in person.

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

28/07/2026

1. Instant writ petition under Article 227 of the Constitution of India has been filed by and on behalf of petitioner-defendant-tenant on 21.05.2024 assailing the order dated 09.04.2024, passed by Appellate Rent Tribunal and order dated 02.02.2024 passed by Rent Tribunal, dismissing his application under Order 9 Rule 13 CPC and thereby affirming the certificate of outstanding rent and eviction dated 21.04.2022 passed against petitioner in Original Application No.231/2021 titled as 'Ravindra Kumar Sharma Vs. Akshat Singh @ Jhamman Singh' by Rent Tribunal, Jaipur Metropolitan-II. For ready reference, the operative portion of final order dated 21.04.2022 is being reproduced hereunder:

"अधिवक्ता अर्जीदार पक्ष उपस्थित। प्रत्यर्थी के विरुद्ध कार्यवाही एकपक्षीय है। बहस अंतिम एकपक्षीय सुनी गई। अंतिम आदेश पृथक से लिखाया जाकर सुनाया गया। आदेशानुसार अर्जीदार द्वारा प्रस्तुत अर्जी विरुद्ध प्रत्यर्थी एकपक्षीय रूप से निम्न प्रकार अन्तिम तौर पर निस्तारित की जाती हैं :-



(1) अर्जीदार, प्रत्यर्थी से विवादित परिसर, जिसका वर्णन अर्जी की मद संख्या 3 में है, का वास्तविक कब्जा आदेश की दिनांक से छः माह के पश्चात् प्राप्त करने का अधिकारी होगा।

(2) अर्जीदार, प्रत्यर्थी/किरायेदार से 7 माह का बकाया किराया 15,000/- रुपये प्रतिमाह की दर से 1,05,000/- रुपये (अक्षरे एक लाख पांच हजार रुपये) भी प्राप्त करने का अधिकारी होगा।

(3) प्रत्यर्थी/किरायेदार द्वारा किरायेदारी परिसर खाली कर आदेश की तारीख से छः माह में कब्जा अर्जीदार को संभलाये जाने की स्थिति में अर्जीदार, प्रत्यर्थी/किरायेदार से अर्जी प्रस्तुति की दिनांक से कब्जा संभलाए जाने तक 15,000/- रुपये प्रतिमाह की दर से बतौर हर्जा इस्तेमाली नियमानुसार न्यायशुल्क अदा करने की शर्त पर किराया प्राप्त करने का भी अधिकारी होगा।

(4) यदि प्रत्यर्थी/किरायेदार कब्जे की पुनः प्राप्ति के प्रमाण-पत्र जारी होने की तारीख से छः माह के भीतर किरायेदारी परिसर को खाली नहीं करता है तो अर्जीदार, प्रत्यर्थी/किरायेदार से कब्जे की पुनः प्राप्ति के प्रमाण-पत्र जारी होने की तारीख से निष्कासन परिसर तक प्रतिमाह किराया दर से तीन गुने की दर से बतौर हर्जा इस्तेमाली नियमानुसार न्यायशुल्क अदा करने की शर्त पर किराया प्राप्त करने का भी अधिकारी होगा।

(5) खर्चा पक्षकारान अपना-अपना वहन करेंगे।

(6) अनुसूची "ग" का प्रमाण-पत्र बनाया जावे।

पत्रावली में अब कोई कार्यवाही शेष नहीं होने से पत्रावली फैसलशुमार होकर बाद पूर्ति दाखिल दफ्तर हो।"

2. It appears from the record that in execution of the final order dated 21.04.2022, possession of rented premises has been handed over by the Court Nazir to the respondent-plaintiff-landlord on 10.02.2023 and thereafter, petitioner filed an application under Order 9 Rule 13 CPC on 15.09.2023, seeking to set aside the order dated 21.04.2022. That application came to be dismissed on merits so also on the ground of limitation vide order dated 02.02.2024 by the Rent Tribunal, whereagainst petitioner preferred appeal and appeal has also been dismissed by the Appellate Rent Tribunal vide order dated 09.04.2024.

3. Petitioner in the memo of writ petition has admitted the factum of evicting the rented premises so also making payment of rented premises till vacation and more particularly in ground (f), such stand has specifically been taken. For ready reference, the



relevant portion of the pleadings, as pleaded by petitioner in Ground (f) in his writ petition, reads as under:

"(f) That the learned courts below have committed a gross error in dismissing the application without considering the fact that the petitioner already vacate the premises in question in the month of December, 2022 and also paid entire rent. The keys of the rented premises always laying with the non- petitioner as per the lease deed. Thus, no question arose for filing the present eviction petition vefore the learned tribunal. As such, The impugned orders are liable to be quashed and set aside."

4. From the record, it appears that it is an admitted and undisputed fact from the side of petitioner that he has vacated the rented premises.

5. In view of such an admitted fact that when this writ petition came up for hearing before the Coordinate Bench on 06.10.2025, ad-interim order for taking no coercive steps against the petitioner was passed in the backdrop of the fact that for recovery of the outstanding rent/mesne profit, petitioner expressed his concern that he may be sent to a civil prison. It appears that there is a factual dispute between the parties in respect of issue rent/mesne profit. According to petitioner rent of the premises up to vacating the rented premises has been paid whereas respondent claims the arrears of due rent in terms of final order dated 21.04.2022.

6. Respondent-landlord too admits to receive the vacant possession of rented premises but according to him vacant possession was handed over by Court Nazir on 10.02.2023 in execution of the final order dated 21.04.2022.

7. It appears that respondent is now pursuing execution for recovery of the outstanding rent/mesne profit as directed by the Rent Tribunal in the final order dated 21.04.2022.



8. In the backdrop of such facts and on the issue as to whether any outstanding rent/mesne profits are due against the petitioner or not, the Coordinate Bench of this Court vide order dated 06.04.2026 passed following order:-

"1. Learned counsel for the petitioner is directed to calculate the rent from 18.07.2021 to 19.10.2022 at the rate of 15,000/- per month and from 20.10.2022 to 19.12.2022 at the rate of 45,000/-per month.

2. An amount of Rs. 1,05,000/- shall also be added to the above. The total so calculated shall constitute the principal amount due against the petitioner in terms of the decree up to the date of possession, which this Court has taken as 19.12.2022.

3. The petitioner shall also disclose, in his statement, the amount, if any, already paid by him from 18.07.2021 under the head of rent. A similar calculation shall be carried out by the respondent, and the statement, along with an affidavit in terms of the above directions, shall also be submitted by the respondent.

4. List this matter on 23.04.2026.

5. Interim order, if any, to continue till the next date of hearing."

9. In furtherance to the order dated 06.04.2026, respondent has placed on record an additional affidavit dated 16.04.2026, depicting that after adjustment of the rent paid by petitioner an amount of Rs. 4,20,000/- is outstanding against petitioner.

10. Respondent, who is present in person, stated at bar that no affidavit or statement has been filed by and on behalf of petitioner on record, in furtherance to the order dated 06.04.2026 and therefore, the Coordinate Bench of this Court passed subsequent order dated 24.04.2026, noting that if petitioner does not make compliance of the order dated 06.04.2026, respondent shall be at liberty to seek vacation of stay order.

11. When the writ petition came up on Board on the last date i.e. 03.07.2026, counsel on behalf of petitioner appeared through VC and in his presence, the writ petition has been posted today for



hearing. Today, no one has put in appearance on behalf of petitioner, therefore, taking into consideration the conspectus of factual scenario, as obtaining in the present case and the dispute which survives in the present writ petition, which is about the payment of outstanding rent/mesne profits, this Court has heard the respondent in person and proceeded to decide this writ petition on merits.

12. Coming to the merits of writ petition, wherein challenge has been made to the orders dated 02.02.2024 and 09.04.2024, it has clearly been noted in the Original Application that summons upon petitioner were served through registered post on his current address and thereafter, since he did not put in appearance, *ex-parte* proceedings were drawn against him and then final order dated 21.04.2022 was passed against him. It has further been noted that it is an admitted case of petitioner that he came to know about the *ex-parte* final order dated 21.04.2022 on 10.02.2023, however, he filed an application under Order 9 Rule 13 CPC on 15.09.2023. In addition, both the Courts have taken note of the report of Court Nazir, which shows that the petitioner was informed about passing of the *ex-parte* final order dated 21.04.2022 on 02.02.2023. It is noteworthy here that the date on which he got knowledge of passing of *ex-parte* order i.e. 10.02.2023, as admitted by petitioner, is the same date on which in the execution proceedings, possession of premises in question was handed over by the Court Nazir to the respondent.

13. In view of such admitted and undisputed factual matrix and taking note of the conduct of petitioner-tenant, Rent Tribunal did not think it proper to set aside the final order dated 21.04.2022,



more so when no sufficient cause was assigned for his non-appearance and application under Order 9 Rule 13 CPC was filed after a delay, without any explanation for the delay. The order has been affirmed by the Appellate Rent Tribunal as well.

14. It is true that while considering the application under Order 9 Rule 13 CPC, the issue of delay should be considered liberally however, as per the factual matrix obtaining in the present case, petitioner has not assigned a single reason for namesake, whatsoever may be, to explain the delay in filing the application under Order 9 Rule 13 CPC within the prescribed period of limitation from the date of having knowledge of the *ex-parte* order and decree dated 21.04.2022 on 10.02.2023. Therefore, in the opinion of this Court, the Rent Tribunal as also Appellate Rent Tribunal have not committed any perversity or manifest illegality or jurisdictional error in not condoning the delay and dismissing the application under Order 9 Rule 13 CPC.

15. In addition, it appears that petitioner has not complied with the order dated 06.04.2026 (*supra*), passed by the Coordinate Bench of this Court, hence, he does not deserve any equity or sympathy of this Court as well.

16. The fact findings recorded in the impugned orders, are based on the pleadings and do not suffer from any vice of arbitrariness, perversity much less jurisdictional error, hence, do not warrant any interference under Article 227 of the Constitution of India on merits as well.

17. Before parting with, it is hereby noted that according to petitioner, he has paid the rent until vacating the rented premises whereas according to respondent, rent/mesne profit is



outstanding. This issue can be looked into by the Executing Court while dealing with proceedings in execution petition, wherein now the issue is confined only in respect of the recovery of due rent/mesne profit, in furtherance to the order dated 21.04.2022 since admittedly petitioner has been dispossessed from the rent premises and possession has been handed over by the respondent by the Court Nazir in the execution proceedings.

18. In view of above reasons, the instant writ petition is bereft of merits and is hereby dismissed.

19. Stay application and pending application(s), if any, also stand disposed of.

(SUDESH BANSAL),J