

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 20667/2023

Vinod Kumar S/o Sh. Omprakash, Aged About 67 Years, Resident Of Presently Business At Mori Char Bagh, Bharatpur, Raj.

-----Petitioner/Non-Applicant

Versus

- 1 Ghanshyamdas S/o Late Sh. Shital Prasad, Resident Of Mori Char Bagh, Bharatpur, Raj. (Deceased).
- 1.1 Smt. Saroj Devi, W/o Late Sh. Ghanshyamdas
- 1.2 Dayashankar Major, S/o Late Sh. Ghanshyamdas
- 1.3 Anand Kumar S/o Late Sh. Ghanshyamdas, Resident Of 161, Swarn Jayanti Nagar, Bharatpur, Raj.
- 1.4 Smt. Sweta W/o Sh. Yogesh D/o Late Sh. Ghanshyamdas, Resident Of Tijara, Alwar, Raj.
- 1.5 Smt. Rekha W/o Sh. Rajesh D/o Late Sh. Ghanshyamdas, Resident Of Kota, Raj.
- 1.6 Smt. Rachna W/o Sh. Krishna D/o Late Sh. Ghanshyamdas, Resident Of Gurgaon, Haryana.
- 2 Jogendra Kumar S/o Late Sh. Shital Prasad, Aged About 68 Years, Resident Of Mori Char Bagh, Bharatpur, Raj.

-----Respondents/Applicants

For Petitioner(s)	:	Mr. Mukesh Kumar Goyal
For Respondent(s)	:	Mr. J.K. Moolchandani

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

27/04/2026

1. The present civil writ petition has been filed assailing the order dated 23.11.2023, passed by learned Civil Judge-cum-Additional Chief Judicial Magistrate (Rent Tribunal), Bharatpur, in Rent Application No. 89/2015, whereby the objections raised by the petitioner by way of an application under Section 15(4) read

with Section 21(3) of the Rent Control Act, 2001, dated 05.10.2023, have been rejected.

2. Learned counsel for the petitioner submits that the respondent, in his examination-in-chief, has deposed beyond the pleadings in the plaint. He, therefore, contends that such an affidavit could not have been taken on record and ought to have been placed in the file in 'D' part. He further submits that at an earlier point of time, when the predecessor of the respondents had filed the eviction petition, there was no mention of the fact that the shop situated at Gulal Kund, Mathura Gate and at Mori Char Bhag, had become available. He, therefore, submits that since these facts were not part of the original petition, they could not have been introduced through the affidavit.

3. Per contra, learned counsel for the respondents submits that a specific ground was raised in the eviction petition regarding the availability of alternative suitable accommodation with the defendant. He submits that the facts placed on record are in the nature of evidence to substantiate the said plea. He further submits that in the affidavit, the plaintiff has merely disclosed the evidence available to establish that alternative premises are available with the defendant, thereby entitling the plaintiff to seek eviction on the ground of availability of suitable accommodation. He, therefore, submits that the learned Trial Court has not committed any illegality in rejecting the petitioner's application.

4. Heard and perused the material available on record.

5. This Court finds that a specific issue, being Issue No. 4, has been framed between the parties as to whether the defendant has any other suitable alternative premises available to him. The

burden of proof lies upon the plaintiff, who is required to establish the same by leading evidence. However, pleadings are required to contain only material facts, and the manner in which those facts are to be proved falls within the scope of evidence.

6. In view of the above, this Court finds that when a specific issue existed between the parties regarding the availability of alternative suitable accommodation, the plaintiff was well within his right to produce all evidence available in support of such issue. Accordingly, this Court finds no reason to interfere with the order dated 23.11.2023 passed by the learned Trial Court in exercise of its writ jurisdiction under Article 227 of the Constitution of India.

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

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

(BIPIN GUPTA),J