



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

S.B. Civil Writ Petition No. 18360/2016

Pratap Singh Hada S/o Shri Chandra Singh Hada, 64, Shopping Centre, Kota Raj.

----Applicant/Landlord/Petitioner

Versus

Rajkumar Jhamb S/o Late Shri Ramlal Jhamb, Vallabh Nagar, Kota, Firm M/s Sunrise Scooter Centre (Auto Parts), 64, Shopping Centre, Kota

----Non-Applicant/Tenant/Respondent

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For Petitioner(s) : Mr. Sangram Singh Solanki  
 For Respondent(s) : Mr. Saransh Saini with  
 Mr. Vinod Kumar Sharma &

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**HON'BLE MR. JUSTICE BIPIN GUPTA**

**Judgment**

**Reportable**

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| Date of hearing and conclusion of arguments                        | 23.02.2026    |
| Date on which the judgment was reserved                            | 23.02.2026    |
| Whether the full judgment or only the operative part is pronounced | Full Judgment |
| Date of pronouncement  | 10.03.2026    |

1. The present writ petition has been preferred assailing the judgment dated 06.10.2016, passed by learned Appellate Rent Tribunal, Kota, in Rent Appeal No. 75/2015, whereby the learned Rent Appellate Tribunal, while allowing the appeal preferred by the respondent-tenant, quashed and set aside the judgment dated 22.09.2015, passed by learned Rent Tribunal, Kota, in Rent Application No. 299/2005 (810/2014), whereby, the application filed under Section 9 of the Rajasthan Rent Control Act, 2001



(hereinafter referred to as the 'Act of 2001') by the petitioner-landlord was allowed.

2. Brief facts giving rise to the present writ petition are that the petitioner-landlord had filed an eviction petition under Section 9 of the Act of 2001, against the respondent-tenant, seeking eviction from the disputed shop on the ground of default, *bonafide* requirement, availability of alternative premises, sub-letting, nuisance and material alteration. It was contended that the premises were *bonafidely* required as the petitioner had two sons, namely Raghuraj Singh and Raghunandan Singh, who intended to start a business of auto parts and computer hardware from the disputed shops.

3. The respondent-tenant filed a reply therein and denied the averments of the eviction petition *inter alia* stating that he had been the tenant of the disputed property since 16.07.1986, and was paying a monthly rent of Rs.3,200/- at the time of filing of the suit. It was further contended that on the ground of alleged *bonafide* requirement, the petitioner had already got the basement vacated from the respondent, where his son Raghuraj Singh was operating an STD/PCO booth. Further, in lieu of the basement, the respondent was let out a room situated on the northern side of the disputed shop. With regard to the necessity of other son namely Raghunandan Singh, it was submitted that he was still pursuing his studies. Thus, according to the respondent, the alleged requirement was neither *bonafide* nor reasonable.

4. The learned Rent Tribunal vide judgment dated 22.09.2015, allowed the eviction petition and passed eviction certificate on the ground of *bonafide* necessity of Raghuraj Singh. However, the





issues relating to default, sub-letting, material alteration, nuisance and availability of alternative premises were decided against the petitioner-landlord.

5. Aggrieved by the judgment dated 22.09.2015, the respondent-tenant preferred an appeal before the learned Appellate Rent Tribunal, which came to be allowed vide judgment dated 06.10.2016 and consequently, the eviction petition filed by the petitioner-landlord was dismissed.

6. Aggrieved by the judgment dated 06.10.2016, the petitioner-landlord preferred the present writ petition.

7. Learned counsel for the petitioner at the outset submitted that the impugned judgment dated 06.10.2016, is patently illegal and arbitrary; thus, deserves to be quashed and set aside. It was contended that the learned Appellate Rent Tribunal committed a serious illegality while reversing the finding on the issue of *bonafide* necessity by observing that the petitioner had sold three shops to one Pramod Agarwal prior to filing of the suit, whereas the said shops were sold in the year 2003 on occasion of marriage of his daughter. Later, in 2005, the need arose on account of the fact that the petitioner's son Raghuraj Singh was in requirement of operating a business of hardware and auto parts in the disputed shop.

7.1 Learned counsel for the petitioner further argued that no cross-examination was conducted by the respondent regarding the marriage of the petitioner's daughter and the consequent sale of shops. Moreover, the learned Appellate Rent Tribunal completely misread the evidence with the regard to the fact of STD/PCO being operated by the son of petitioner whereas the same was being





operated by his daughter in law Smt. Nihal Kanwar in a 3ft. x 10ft. shop.

7.2 Learned counsel for the petitioner submitted that admittedly a suit was filed by him for eviction against one Dinesh Kumar Agarwal and M/s Asra Enterprise on ground of default in payment of rent. However, the arrears of rent were deposited and therefore, the suit was dismissed on account of compromise. Consequently, the tenants continued in possession of the premises. Thus, learned Appellate Rent Tribunal committed grave illegality while drawing adverse inference that the petitioner had earlier filed a suit for eviction and if he *bonafidely* required the shops, he would not have entered in a compromise.

7.3 Learned counsel for the petitioner further submitted that the petitioner had not concealed any material facts from the Court and that the learned Appellate Rent Tribunal wrongly observed that the petitioner had filed another suit against one Smt. Leelavati which had already been decided. It was clarified that the respondent himself was a tenant of Smt. Leelavati in another shop situated near the disputed premises and the petitioner had only taken the plea that an alternative premises was available to the respondent.

7.4 Learned counsel for the petitioner further submitted that the petitioner had obtained possession of another shop which had earlier been in occupation of one Shailendra, and the said shop was being used by the petitioner's son Raghunandan for running an ice-cream parlor. He contended that the need for eviction was a *bonafide* one as his other son was desirous to open a hardware and auto-part shop and the same could not be operated jointly with an ice-cream Parlor. He, thus, submitted that there existed a





*bonafide* requirement of the petitioner and the judgment dated 06.10.2016 deserves to be quashed and set aside.

7.5 Learned counsel for the petitioner to support his arguments relied upon the following judgments:

(i) **Hukum Chandra (Dead) Through Legal Representatives vs Nemi Chand Jain and Others;**

(2019) 13 SCC 363.

(ii) **Kanahaiya Lal Arya vs MD. Ehshan & Ors.;** 2025 INSC 271.

(iii) **Jyoti Sharma vs Vishnu Goyal & Anr.;** 2025 INSC 1099.

(iv) **Chain Singh Gehlot vs Sushila Parihar;** S.B. Civil Writ Petition No. 7177/2023 {Rajasthan High Court, Bench Jodhpur}.

(v) **Rajani Manohar Kuntha & Ors. vs Parshuram Chunilal Kanojiya & Ors.;** Civil Appeal. No. 014510/2025 arising out of SLP (c) No. 30407/2024 (decided on 02.12.2025).

8. Per contra, learned counsel for the respondent submitted that the petitioner has not approached the Court with clean hands as the pleadings in the petition are selective, incomplete and suppress the material documentary evidence which were duly produced and exhibited before the learned Rent Tribunal as Ex-A/1 to Ex-A/36. The controversy in the present matter is confined to Issue No.2 relating to alleged *bonafide* necessity as on all the other issues, the learned Rent Tribunal itself recorded a finding against the petitioner.





8.1 Learned counsel for the respondent further argued that the eviction petition was allowed solely on the ground of alleged *bonafide* necessity despite rejecting the grounds of default, nuisance, and material alteration and recording a finding adverse to the petitioner regarding availability of alternative accommodation. Since, the finding on *bonafide* necessity was contrary to the documentary evidence and suffered from material irregularity, therefore, the learned Appellate Rent tribunal rightly set aside the finding of the learned Rent Tribunal.

8.2 Learned counsel for the respondent submitted that the learned Appellate Rent Tribunal, vide a detailed and reasoned judgment, has rightly reversed the finding of the learned Rent Tribunal regarding the *bonafide* necessity and dismissed the eviction petition.

8.3 Furthermore, the absence of *bonafide* necessity is clearly highlighted from the fact and certified copies of documents i.e. Ex-A/31 to Ex-A/35, that the shop adjacent to the disputed shop was vacated by the petitioner from one Shailendra Kumar, where his younger son Raghunandan Singh, was carrying an ice-cream parlor and was also serving in a private bank. Thus, the availability of the adjacent shop demolishes the alleged urgent requirement for starting auto parts business.

8.4 Additionally, Ex-A/14 clearly shows that eviction proceedings were initiated against one Dinesh Kumar but were subsequently compromised and the tenant was permitted to continue. This conduct clearly shows inconsistency with a genuine and pressing need of the petitioner-landlord.





8.5 It was also argued that the documentary evidence i.e. Ex-A/17 and Ex-A/18 clearly prove that three shops adjacent to the shop in question were sold to one Pramod Kumar. It was alleged that the shops were sold in 2003 to meet the expenditure of petitioner's daughter marriage. However, the marriage was solemnized in the year 2005-2006. Thus, the explanation as given by the petitioner was factually incorrect. Moreover, a landlord who voluntarily alienates adjacent premise cannot simultaneously claim a pressing *bonafide* need.

8.6 Learned counsel for the respondent further submitted that the evidence on record clearly establish that the younger son of the petitioner is employed in a private bank and runs ice-cream parlor. The elder son, Raghuraj Singh, is operating STD/PCO from the basement portion of the disputed shop. The ground floor space towards the eastern side was also available and thus, alternative suitable accommodation did exist.

8.7 Learned counsel for the respondent hence, submitted that the cumulative effect of sale of adjacent shops, availability of vacated premises, compromises with other tenants, employment and existing business of sons and suppression of material facts clearly establish that that the alleged requirement is neither *bonafide* nor reasonable. Hence, the present writ petition may be dismissed.

8.8 Learned counsel for the respondent also submitted that he has filed an application under Order 41 Rule 27 of the CPC for taking subsequent events on record. He stated that the petitioner, Pratap Singh Hada, has filed a suit against his son Raghunandan Singh Hada seeking cancellation of the license and a decree of





mandatory injunction. It was argued that since Pratap Singh Hada himself has filed a suit against his son, the need alleged in the rent petition for establishing his son Raghunandan Singh Hada was artificial and not a *bonafide* requirement. Therefore, the respondent prayed that the application filed under Order 41 Rule 27 CPC be allowed.

8.9 Learned counsel for the respondent relied on the following judgments to buttress his arguments:

(i) **M/s Rahabhar Production Pvt. Ltd. vs Rajendra K. Tandon**; AIR 1998 SC 1639.

(ii) **Shiv Sarup Gupta vs Dr. Mahesh Chand Gupta**; AIR 1999 SC 2507.

(iii) **Ram Dass vs Ishwar Chander and Ors.**; AIR 1988 SC 1422.

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

10. Before adverting to the issue involved in the present case, this Court deems it appropriate to first decide the pending application filed by the respondent under Order 41 Rule 27 CPC. By way of the said application, the respondent has sought to place on record a copy of the plaint filed by Pratap Singh Hada against his son Raghunandan Singh Hada and daughter-in-law Sarita. Learned counsel for the respondent-tenant submitted that these documents are necessary for the proper adjudication of the present writ petition.

11. Learned counsel for the petitioner filed a reply to the said application and submitted that the aforesaid suit does not relate to the property in dispute. He, further, submitted that the said





dispute is also not in respect of the place where Raghunandan Singh Hada is carrying on his business. According to the petitioner, the said suit was filed only in relation to a residential property and, therefore, the same is neither material nor relevant for the purpose of adjudication of the present dispute. Learned counsel for the petitioner further averred that the said suit was ultimately withdrawn by the petitioner on 03.02.2025.

12. This Court finds that the issue involved in the present case relates to the *bonafide* need claimed by the petitioner-landlord for his sons, namely Raghunandan Singh Hada and Raghuraj Singh Hada. Furthermore, the dispute in respect of the residential premises between Pratap Singh Hada and Raghunandan Singh Hada is not relevant for the purpose of deciding the eviction petition based on the *bonafide* need of the petitioner-landlord. Therefore, this Court finds that the document sought to be placed on record by the respondent is neither relevant nor necessary for the adjudication of the present dispute. Consequently, the application filed by the respondent under Order 41 Rule 27 CPC is dismissed.

13. So far as the controversy involved in the present case is concerned, the issue to be decided by this Court is that whether the finding recorded by the learned Rent Tribunal regarding the *bonafide* need was rightly set aside by the learned Appellate Rent Tribunal, or whether the learned Appellate Rent Tribunal committed perversity and illegality while reversing the finding of the learned Rent Tribunal.

14. A bare perusal of the rent application filed by the petitioner-landlord before the learned Rent Tribunal demonstrates





that the petitioner had claimed a *bonafide* requirement for his two sons, namely *Raghunandan Singh Hada and Raghuraj Singh Hada*.

15. This Court further on perusal of the record finds that the learned Rent Tribunal observed that one shop had come into the possession of the petitioner after it was vacated by a tenant and the said shop was given to his son Raghunandan Singh Hada for carrying on the business of an ice-cream parlor. Therefore, the learned Rent Tribunal held that the need of Raghunandan Singh Hada stood satisfied. However, the *bonafide* need of Raghuraj Singh Hada still remained and was duly proved by the petitioner-landlord, and accordingly the learned Rent Tribunal passed a decree of eviction on the ground of *bonafide* requirement.

16. However, this Court finds that the learned Appellate Rent Tribunal, merely on account of the fact that the need of one of the sons stood satisfied, and the requirement had been claimed jointly for both the sons, reversed the finding recorded by the learned Rent Tribunal.

17. This Court is of the firm opinion that if the requirement is pleaded for two sons for carrying on business and, during the pendency of the suit, one of the sons gets an alternative premises, it cannot be presumed that the requirement of the other son automatically stands satisfied.

18. More so, in the facts of the present case, it was proved that the shop which became available during the pendency of the suit, was utilized by Raghunandan Singh Hada, who started running an ice-cream parlor. The learned Appellate Rent Tribunal has nowhere recorded a finding that both the sons were carrying on the business of an ice-cream parlor in the said shop which became





available during the pendency of the suit. Once it is found that only one son is carrying on business in the shop which became available during the pendency of the suit, the requirement of the other son could not have been said to have been satisfied. Therefore, this Court finds that the finding recorded by the learned Appellate Rent Tribunal is perverse and illegal and the same deserves to be set aside.

19. The learned Appellate Rent Tribunal has also reversed the finding on account of the fact that the petitioner-landlord had sold three shops and, on that basis, raised a doubt regarding the *bonafide* need of the petitioner-landlord. However, it is not in dispute that the said shops were admittedly sold in the year 2003, whereas the present eviction petition was filed in the year 2005, i.e., on 01.08.2005. Thus, the sale which had taken place prior to the institution of the suit could not have been made a ground to doubt the *bonafide* requirement of the plaintiff.

20. There may be several circumstances where the owner of a property may sell his property for various reasons. A tenant cannot dictate the landlord that he should not sell his property. In the present case, the shops were sold in the year 2003 itself, and not during the pendency of the suit as well as the appeal. Therefore, the said fact could not have been relied upon by the learned Appellate Rent Tribunal to disbelieve the *bonafide* need of the plaintiff.

21. This Court also finds that the learned Appellate Rent Tribunal has misread the pleadings and the evidence available on record while observing that the petitioner-landlord had filed a suit





against one of the tenants, namely Leelavati, and had concealed the fact that the said suit had already been decided.

22. During the course of arguments, learned counsel for the respondent fairly conceded that the said finding is incorrect, as the suit in question was filed by Leelavati against the tenant Rajkumar. Thus, it was admitted that the finding recorded by the learned Appellate Rent Tribunal in this regard is erroneous.

23. This Court, therefore, finds that the reasons recorded by the learned Appellate Rent Tribunal while reversing the findings of the learned Rent Tribunal are incorrect and are based on a misreading of the facts available on record. It appears that the learned Appellate Rent Tribunal, without due application of mind and without proper appreciation of the pleadings and evidence, has passed the impugned order dated 06.10.2016.

24. The learned Appellate Rent Tribunal has also relied upon the fact that the petitioner-landlord had entered into a compromise with another tenant against whom a suit had been filed and, on that basis, doubted the *bonafide* need of the petitioner-landlord. However, this Court finds that the said suits against other tenants were not based on the ground of *bonafide* requirement. Therefore, the compromise entered into in those proceedings could not have been made a ground to disbelieve the *bonafide* need of the petitioner-landlord in the present case. Consequently, the finding recorded by the learned Appellate Rent Tribunal in this regard also deserves to be quashed and set aside.

25. It is not in dispute that in those cases, once the tenants had deposited the rent, the suits were compromised between the landlord and the tenants. As a consequence, those properties did





not become available to the landlord. Even otherwise, it is well settled that a tenant cannot dictate the landlord as to where and in what manner he should carry on his business. The respondent-tenant has also failed to place any material on record to prove that the petitioner-landlord has other suitable accommodation available for meeting the alleged requirement. Therefore, this Court finds that merely on the basis of the compromises entered into in other proceedings, the *bonafide* need of the petitioner cannot be termed as artificial, as has been held by the learned Appellate Rent Tribunal.

26. This Court further finds that the rights of the tenant are otherwise sufficiently protected in law in case a decree of eviction is granted on the ground of *bonafide* requirement.

27. This Court therefore, deems it appropriate to quote the provision of Section 9 (i) of the Rajasthan Rent Control Act, 2001, (hereinafter referred to as the 'Act of 2001') along with its proviso, which reads are under:

*"(i) the premises are required reasonably and bona fide by the landlord for the use or occupation of himself or his family or for the use or occupation, of any person for whose benefit the premises are held :*

*Provided that where decree of eviction from any premises is sought by the landlord under clause (i), he shall be prohibited from letting out the same to any other person within a period of three years and in case the premises are let-out, the tenant shall be entitled for restoration of possession on a petition moved by him before the Rent Tribunal and the Rent Tribunal shall dispose of such petition expeditiously and the procedure as laid down in section 16 shall mutatis mutandis apply; or"*

28. The provision thus clearly safeguards the interest of the tenant inasmuch as if a landlord obtains a decree of eviction on





the ground of *bonafide* requirement and, if within three years, lets out the property to another person, the tenant is entitled to seek restoration of possession in accordance with law.

29. It is also well settled that the requirement of the landlord need not be a dire or pressing necessity. The Hon'ble Supreme Court has consistently held in catena of judgments that even if the requirement is not a dire one, eviction can still be granted provided the requirement is genuine and *bonafide*.

30. This Court finds that based on the evidence, the learned Rent Tribunal had found the need of one son Raghuraj Singh Hada to be *bonafide* and therefore, had granted a decree. The learned Appellate Rent Tribunal committed gross illegality and perversity and had misread the evidence on record and has arrived at a different conclusion by reversing the well-reasoned findings recorded by the learned Rent Tribunal.

31. Thus, the findings recorded by the learned Appellate Rent Tribunal being perverse, are liable to be set aside by exercising powers under Article 227 of the Constitution of India. Accordingly, the present writ petition is **allowed**; order dated 06.10.2016 passed by learned Appellate Rent Tribunal is set aside and the order dated 22.09.2015, passed by the learned Rent Tribunal is restored.

32. In the interest of justice, this Court deems it appropriate to grant six months' time to the respondent-tenant to vacate the premises in terms of the proviso to Section 15(8) of the Act of 2001, which prohibits the execution of the certificate issued in favour of the landlord for a period of six months in case of premises is rented for commercial use.





33. All pending applications stand disposed of.

**(BIPIN GUPTA),J**

Sudha/

