

**Rameshwar Dayal Java Vs. Radheyshyam and anr**

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**SooperKanoon Citation :** [sooperkanoon.com/973753](http://sooperkanoon.com/973753)

**Court :** Rajasthan Jodhpur

**Decided On :** Aug-21-2012

**Appellant :** Rameshwar Dayal Java

**Respondent :** Radheyshyam and anr

**Judgement :**

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR  
:ORDER : Rameshwar Dayal Java Vs. Radheyshyam & Another (S.B. Civil Writ  
Petition No.6025/2006) DATE OF ORDER : August 21, 2012 PRESENT HON'BLE  
MR. JUSTICE GOPAL KRISHAN VYAS

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Mr. Deelip Kawadia for the petitioner. Dr. Sachin Acharya for the respondent. BY THE COURT : Instant writ petition has been filed for quashing order dated 26.05.2006 by which application filed by respondent- applicant for amendment of petition before the Rent Tribunal was allowed. An application was moved before the Rent Tribunal, Udaipur by respondent No.1 for eviction on the ground of bonafide necessity under the Rajasthan Rent Control Act, 2001. After filing the above petition, an application under Order 6 Rule 17, C.P.C. was filed for seeking amendment in the petition before the Tribunal by way of adding a new ground of default. Non-applicant-petitioner raised objection that ground of default cannot be raised at this stage as the same was in knowledge of the applicant even before filing the petition. The Rent Tribunal allowed the application vide impugned order dated 26.05.2006. Learned counsel for the petitioner vehemently argued that 2 the fact which was well within the knowledge of the applicant was not incorporated in the application

filed before the Rent Tribunal and subsequently the application was filed for amendment under Order 6 Rule 17, C.P.C. for incorporating the said ground of default in the suit which is not permissible under the law. As such, the learned trial Court committed gross error while allowing such application at that stage, therefore, the order impugned may be quashed. Learned counsel appearing for the respondent submits that under Section 21 of the Rajasthan Rent Control Act, 2001 the Rent Tribunal and Appellate Rent Tribunal are not bound by the procedure laid down in the Code of Civil Procedure but shall be guided by the principles of natural justice, subject to other procedure made in the rules and, in view of the above, it is abundantly clear that while following the principle of natural justice the Rent Tribunal has ample power to regulate its own procedure for the purpose of discharging function under the Act of 2001, therefore, the application filed under Order 6 Rule 17, C.P.C. was allowed by the Tribunal so as to defeat multiplicity of litigation. In this view of the matter, the petitioner cannot raise any objection for order impugned because he has committed default. After hearing learned counsel for the parties, I have perused the order impugned. In my opinion, the Rajasthan Rent Control Act, 2001 is a special enactment, in which, the legislature has incorporated Section 21 under which the procedure and powers of Rent Tribunal and Appellate Rent Tribunal are prescribed. According to Section 21(3), there is power left with the Rent Tribunal to regulate its own procedure for the purpose of discharging its function under the Act of 2001. Therefore, in my considered opinion, if the Rent Tribunal has exercised its power vested in it under Section 21(3) of the Act of 2001 and allowed the application filed under Order 6 Rule 17, C.P.C., then, there is no wrong in it because the respondent-non-applicant has prayed for incorporating ground of default in addition to the earlier ground of bonafide necessity. In view of the above, I see no reason to interfere in the order impugned because the same is in consonance with law. Hence, this writ petition is dismissed. (Gopal Krishan Vyas) J.

Ojha, a.