

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. CIVIL WRIT PETITION NO.2672/07

Sitaram Vs. The Civil Judge (JD),
Pushkar, Distt. Ajmer

Date of order : 30/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Rajeev Surana for the petitioner.
Shri Amrit Sirollia for the respondent.

This writ petition has been filed by the petitioner with the prayer that the Court of Civil Judge (JD), Pushkar be directed to proceed with the petition for eviction in accordance with the provisions of Rajasthan Rent Control Act, 2001.

Learned counsel for the petitioner has contended that on account of the option available to the tenant under Section 32 of the said Act, the petitioner withdrew his second appeal No.269/02 on 2.8.2006. Learned counsel

for the petitioner requested that if the Rent Tribunal has not been constituted at Pushkar so far, his suit / petition be transferred to Ajmer where the Rent Tribunal is functioning for trial and disposal.

Learned counsel for the respondent however opposed the writ petition and submitted so long as notification extending and applying of the aforesaid Act, 2001 to other Municipal Town is not issued by the State Government, the aforesaid Act cannot be held applicable to Pushkar where the disputed property is located.

In my considered view, until the State Government comes out with an intention of making the Act of 2001 applicable to other Municipal Towns, the aforesaid act would not be

enforceable / applicable in those areas and remedies under the normal law to the tenant would be available.

Learned counsel for the petitioner at this stage submitted that he withdrew the second appeal because of the impression that the Act of 2001 was made applicable to Pushkar and therefore he had the option of filing a fresh petition in view of provisions of Section 32 of the said Act. He should therefore be permitted to withdraw the writ petition with liberty to file an application for revival of the second appeal.

The writ petition is accordingly dismissed as withdrawn with the aforesaid liberty.

(MOHAMMAD RAFIQ), J.

RS/