

SBCivil writ Petition No.11708/2009

Deendayal Khatri
v.
Rajendra Bhandari & Anr.

Date of Order :: 30th July, 2010

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. BS Charan, for the petitioner.
Mr. SR Soni, for the respondents.

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By order dated 10.12.2009 the rent tribunal rejected the application submitted by the petitioner seeking permission to cross examine a witness. The rejection aforesaid was made on the count that the issue can very well be settled on basis of the affidavits and documents produced in evidence.

As per counsel for the petitioner the court below erred while rejecting the application as the petitioner wanted to confront the landlord regarding certain amounts paid to him against the rent. It is asserted that in view of the Division Bench Judgment of this Court in the case of Aasandas v. State of Rajasthan & Ors., 2005(1) DNJ (Raj.) 431, the refusal for cross examination may be in rare cases and wherever the question of facts requires determination, cross examination of deponent has to be permitted when demanded.

I have considered the arguments advanced and also examined merits of the case.

In the instant matter the respondent preferred an application before the rent tribunal solely on the count of the default in payment of rent. While meeting with the allegation of default the petitioner submitted an affidavit contents of which are controverted by the respondent by submitting a counter affidavit. Certain documents are also placed on record for getting the issue relating to default in payment of rent settled.

True it is, in normal course permission to cross examine a deponent should not be rejected, however, where the facts sought to be established can very well be settled on basis of affidavits and other documentary evidence then the cross examination even on demand can be denied. In the instant matter the question of facts is not dependent to oral testimony but on documents and the statements made by way of submitting affidavits. Counter affidavit has already been filed by the petitioner. Section 21 of the Rajasthan Rent Control Act, 2001 empowers a tribunal to adopt its own course and while adopting such course the tribunal is required to adhere principles of natural justice. In the case in hand I do not find any reason to accept contention of counsel for the petitioner that denial of cross examination in present

set of facts shall cause prejudice to the petitioner and that will be in violation of principles of natural justice.

In totality of facts of the case I am not inclined to interfere with the order impugned while exercising powers under supervisory jurisdiction of this Court.

Accordingly, the petition for writ is dismissed.

(GOVIND MATHUR),J.

kkm/ps.