

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JAIPUR BENCH, JAIPUR

S.B. Civil Review Application No.79/2011(D)  
in  
S.B.Civil Second Appeal No.218/2009  
Babulal Saini though his legal heirs  
vs.  
Kishan Chand & Ors.

DATE: 30<sup>th</sup> November, 2011

**HON'BLE MR.JUSTICE NARENDRA KUMAR JAIN-I**

Mr.Neeraj Sharma, for applicant.

Heard learned counsel for the applicant.

2. Registry has pointed out five defects in the review petition. Defect No.1 is that review petition is barred by five days and no application under Section 5 of the Limitation Act has been filed. The defects have not been removed and application under Section 5 of the Limitation Act has also not been filed despite grant of time on 4<sup>th</sup> July, 2011. In these circumstances, the review petition cannot be entertained and deserves to be dismissed being barred by limitation.

3. Apart from above, I have also examined the review petition on merits. The applicant Smt.Shyama Devi W/o.Shri Girraj Prasad and D/o.Late Shri Babu Lal has preferred this review petition to review the order dated 18<sup>th</sup> March, 2011 passed in S.B.Civil Second Appeal No.218/2009, whereby second appeal preferred on behalf of defendants/tenants were dismissed as not pressed and time to vacate rented premise was granted upto 18<sup>th</sup> March, 2012.

4. Submission of learned counsel for petitioner is that petitioner was also one of the legal representative of deceased Babulal Saini, who was tenant in the rented premise, the other legal heirs of Babulal Saini were substituted, the name of petitioner was not included in the cause title, therefore, the order be reviewed.

5. I have considered the submissions of learned counsel for petitioner. The petitioner in the entire review petition has not mentioned that she was carrying on business with her father late Shri Babulal Saini till the death of her father and, therefore, her name should have also been substituted as legal representative of late Shri Babulal Saini. Learned counsel for petitioner is unable to point out any averments in this regard in the review application. He is also unable to satisfy this Court as to how she became tenant within the definition of 'tenant' defined in sub-section (vii) of Section 3 of the Rajasthan Premises (Control of Rent & Eviction) Act, 1950.

6. After considering all the facts and circumstances of the case, I do not find any error apparent on the face of record so as to review the order dated 18<sup>th</sup> March, 2011.

7. In view of above, the review petition is dismissed being barred by limitation as well as on merits also.

**(NARENDRA KUMAR JAIN-I),J.**