HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 1162/2020

Lalit Taya S/o Late Shri Roshan Lal, Aged About 59 Years, R/o Kushalbag, Keshav Nagar, Udaipur C/o Shri Ajit Porwal, House No. 848/2, Kushalbag, Keshav Nagar, University Road, Udaipur (Rajasthan).

----Petitioner

Versus

1. Bhanwar Lal S/o Keshri Chand Damar, B/c Porwal, Since Deceased.
2. Narendra Kumar S/o Late Shri Bhanwar Lal Damar, R/o Singhat Vadiyon-Ki-Sehri, Bada Bazar, Udaipur (Rajasthan).

----Respondents

For Petitioner(s)	:	Mr. Sanjay Nahar (through VC)
For Respondent(s)	:	Mr. Madan Lal Purohit (through VC)

HON'BLE MR. JUSTICE VIJAY BISHNOI

Order

07/12/2020

The petitioner-non-applicant has preferred this writ petition being aggrieved by the impugned judgment and decree dated 13.11.2019 passed by the Appellate Rent Tribunal, Udaipur in Rent Appeal No.32/2018, whereby the appeal of the petitioner has been dismissed and the judgment dated 04.09.2018 passed by the Rent Tribunal, Udaipur has been affirmed. By the judgment dated 04.09.2018, the Rent Tribunal, Udaipur has allowed the original application filed by the respondents for eviction and recovery of rent against the petitioner.

Learned counsel for the petitioner upon instructions submits that the petitioner do not want to press the writ petition on merits, however, prays that reasonable time may be granted to him to handover the vacant and peaceful possession of the suit premises.

Learned counsel for the respondents agrees that he has no objection if reasonable time is given to the petitioner to handover the vacant and peaceful possession of the suit premises.

Learned counsel for the petitioner is ready to pay the mesne profit of disputed premises at the rate of Rs.3,000/- per month from 1st December, 2020 and is also ready to continue to pay mesne profit every month by 15th day of the next succeeding month or in advance to the respondents up till the vacant possession is handed over to the respondents.

Accordingly, with the consent of both the learned counsel the present writ petition of the petitioner is dismissed as not pressed on merits with a direction to the petitioner to submit an undertaking to the effect that he will handover the peaceful and vacant possession of the suit premises to the respondent-landlord on or before 30.06.2021 with the following conditions:-

(i) The petitioner shall submit an undertaking to the effect that he shall handover the vacant and peaceful possession of the suit premises in dispute to the respondent-applicant on or before 30.06.2021 and shall not cause any damage to the rent property and shall maintain the same as it is. The respondent shall not execute the impugned decree till 30.06.2021.

(ii) The petitioner shall pay the mesne profit of Rs.3,000/- per month from 1st December, 2020 and shall further continue to pay mesne profit every month by 15th day of the next succeeding month or in advance to the respondent up till vacant possession is handed over to the respondent-landlord. The arrears of rent and mesne profit as determined by the Tribunals below, if not already paid, shall also be paid by the petitioner within a period of three months from today and entire amount including the amount already deposited on this account will be disbursed to the respondents. .

(iii) The petitioner-defendant shall further undertake that he will not sub-let, assign or part with the possession of the suit premises or any part thereof in favour of anyone else and would not create any third party interest in the same during the aforesaid period and if they do so, the same will be treated as void.

(iv) The petitioner shall furnish a written undertaking incorporating the aforesaid conditions in the trial Court by 31st December, 2020 and one copy thereof along with affidavit in this Court .

(v) The respondent will give the details of his bank account number in which the arrears of rent or mesne profit and regular mesne profit now to be paid, will be deposited within a period of three months from today.

(vi) It is made clear, that in case, the petitioner does not comply with any of the aforesaid conditions, then it will be open for the respondent to get the decree passed in her favour executed forthwith even before the aforesaid dated i.e.

30.06.2021 and the respondent may also initiate contempt proceedings in this Court against the petitioner.

No costs.

A copy of this judgment be sent to the learned court below forthwith.

(VIJAY BISHNOI),J

51-Taruna/-

RAJASTHAN HIGH COURT

सत्यमेव जयते