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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1661 of 2026

Pratap L. Jesrani S/o Late Laxman Das Jesrani Aged About 81 Years
R/o Tulsimarg, Korba (C.G.) Proprietor of Saraswati Trading Company,
Korba, Tehsil and District- Korba (C.G.)

... Petitioner

versus

Smt. Krishna Bai Thavait (Died and Deleted) Ajay Kumar Thavait S/o
Late Babulal Thavait Aged About 51 Years R/o Purani Basti, Police
Station, Tehsil And District- Korba (C.G.)

... Respondent

For Appellant : Ms. Shivangi Agrawal, Advocate
For Respondent/ : Mr. Anshul Tiwari, Advocate

Hon'ble Shri Krushna Ram Mohapatra, Chief Justice

Hon'ble Shri Santosh Sharma, Judge

Judgment on Board

Per Krushna Ram Mohapatra, Chief Justice

28.09.2026

1. Heard Ms. Shivangi Agrawal, learned counsel for the Petitioner and Mr. Anshul Tiwari, learned counsel, appearing for the respondent.
2. The Petitioner in this writ petition prays for following reliefs :

"1] That, this Hon'ble Court may kindly be pleased to issue a writ/writs, order/orders, direction/directions quashing the order passed by the Rent Control Tribunal dated 30.01.2026 passed in MJC No.14/2024 titled "Pratap L. Jesrani v/s. Ajay Kumar Thavait" and

order dated 27.06.2024 passed in Appeal No. 78A/2023 titled "Pratap L. Jesrani v/s. Ajay Kumar Thavait" and the Hon'ble Court may kindly be pleased to quash the order dated 25.09.2023 passed by the Rent Control Authority in Revenue Case No. 05/201612050100002/A-90(3)/2015-16 titled Smt. Krishna Bai Thavait v/s. Pratap L. Jesrani" and the application preferred by the Applicant under Section 23 of Chhattisgarh Accommodation Control Act, 1961 read with 1966 Rules may kindly be dismissed.

2] That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case."

3. It is submitted by learned counsel for the Petitioner that the landlord, namely, Smt. Krishna Bai Thavait had filed the application for eviction of the Respondent from the shop-room in question. It was stated in the application that the landlord had got the shop-room by way of succession from her father. The application for eviction was filed by the original landlord on 21st December, 2015 under the provisions of the Chhattisgarh Accommodation Control Act, 1961 (for brevity, 'the Act, 1961') and rules framed thereunder. But, by then the Chhattisgarh Rent Control Act, 2011 (for brevity, 'the Act, 2011') had already come into force on 06th November, 2012. The Rent Control Authority decided the application filed by the original landlord under the provisions of the Act, 2011 and directed eviction of the present petitioner from the shop-room. The Petitioner being aggrieved filed an Appeal under Section 13 of the Act, 2011, which was registered as Appeal No. 78-A of 2023. The said Appeal was decided on 27.06.2024 (Annexure- P/2) holding that the Appeal is

not maintainable as the application for eviction was filed by the landlord under the Act, 1961 and rules framed thereunder. The Petitioner also filed a review petition before the Tribunal for review of the order under Annexure – P/2, which was registered as Misc. Judicial Case No. 14 of 2024, and was dismissed vide order dated 30.01.2026 (Annexure – P/1). Assailing the aforesaid orders, this writ petition has been filed.

4. Learned counsel for the Petitioner submits that although the application by the landlord was filed under the Act, 1961, but it was decided under the provisions of the Act, 2011. Thus, the Appeal under Section 13 of the Act, 2011 was maintainable. Learned Tribunal without appreciating the same committed an error law in not entertaining the Appeal on merit and dismissing the appeal on the ground of maintainability. It is her submission that the orders under Annexures – P/2 and P/1 are thus not sustainable and are liable to be set aside.
5. Learned counsel for the Respondent / landlord submits that although the application before the Rent Control Authority was filed under the Act, 1961, but the same was considered under the provisions of the Act, 2011, which was in force at the time of filing as well as finalization of the application for eviction of the tenant (the Petitioner). Thus, learned Rent Control Authority has committed no error in directing eviction of the Petitioner from the shop-room. He however submits that the Tribunal should have decided the question of maintainability as as well as merit of the

Appeal. In the instant case, merit of the Appeal has not been gone into by the Tribunal. He further submits that even if the order of the Tribunal is set aside, the order of eviction would sustain and the Petitioner is liable to be evicted.

6. Taking note of the submissions made by learned counsel for the parties and on perusal of the record, this Court finds that the petition for eviction was filed by the original landlord under the provisions of the Act, 1961. But, preconditions for filing a petition under the Act, 2011 was satisfied by giving three months prior notice to the tenant for eviction. Nomenclature of a petition is not the determining factor for adjudication. It is the subject matter of dispute and the relief claimed, which should be taken into consideration for adjudication of a matter. In the instant case, the Rent Control Authority though recorded a finding that the petition was filed under the Act, 1961, but, taking into consideration that the preconditions of the Act, 2011 was satisfied and taking note of the rival contentions of the parties, passed an order of eviction under Annexure – P/3.
7. Assailing the same, the Petitioner, who is admittedly the tenant under the landlord, filed an Appeal under the Act, 2011. The Tribunal, erroneously holding that the Appeal would not be maintainable as the application was filed under the Act, 1961, dismissed the Appeal.
8. Learned Tribunal while adjudicating the matter should have taken into consideration that the application though filed under the

provisions of the Act, 1961, but it was decided under the provisions of the Act, 2011. Thus, an Appeal under the Act, 2011 was very much maintainable. The Tribunal failed to appreciate the same and dismissed the Appeal on the ground of maintainability. As such, the impugned order under Annexure – P/2 and consequential order under Annexure – P/1 are not sustainable in eye of law and are set aside. The matter is remitted to the Chhattisgarh Rent Control Tribunal, Raipur (C.G.) to adjudicate the Appeal No. 78-A of 2023 afresh on its own merit giving opportunity of hearing to the parties concerned.

9. To avoid further delay in disposal of the Appeal, this Court directs that the parties shall appear before the Chhattisgarh Rent Control Tribunal, Raipur (C.G.) on 12th October, 2026 to receive further instruction in the matter. On their appearance, the Tribunal shall forthwith proceed to adjudicate the Appeal on its own merit keeping in mind the aforesaid observation and direction.
10. The writ petition is allowed to the aforesaid extent. Interim order dated 10.04.2026 stands vacated.

Sd/-
(Santosh Sharma)
Judge

Sd/-
(Krushna Ram Mohapatra)
Chief Justice