

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

WRIT APPEAL NO. 93 /2014 (D.B.)

APPELLANT
PETITIONER

Rameshwar Prasad Agrawal, aged about 80 years, son of Late Shri Ram Bhagat Agrawal, occupation - Agriculturist, resident of - Belgahana, Tahsil - Kota, District - Bilaspur (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through the Secretary Excise Department, Mahanadi Bhawan, New Raipur C.G.
2. Collector, Bilaspur
3. District Excise Officer, Bilaspur (C.G.)

WRIT APPEAL UNDER SECTION 2 SUB SECTION 1 OF THE
HIGH COURT OF CHHATTISGARH (APPEAL TO DIVISION
BENCH) ACT, 2007



24

HIGH COURT OF CHHATTISGARH, BILASPUR

D.B.: HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.

WRIT APPEAL NO. 93 OF 2014

APPELLANT

Rameshwar Prasad Agrawal

Versus

RESPONDENTS

State of Chhattisgarh and Others

(WRIT APPEAL UNDER SECTION 2(1) OF THE CHHATTISGARH
HIGH COURT (APPEAL TO DIVISION BENCH) ACT, 2007)

Appearance:

Mr. P.K.C. Tiwari, Sr. Advocate with Mr. Shashi Bhushan, Advocate for
the Appellant.

Mr. U.N.S. Deo, Government Advocate for the State.

ORDER

(27th of January, 2015)

PER NAVIN SINHA, ACTING CJ

1. We have heard Learned Counsel for the Appellant and the State.
2. The present appeal arises from order dated 9.1.2014 dismissing Writ Petition No.485 of 2001. The Learned Single Judge held that there was no written agreement between the parties fixing rent at Rs.1500/- per month. The Collector having opined to fix the rent at Rs.350/- per month committed no illegality in applying the analogy of the Rent Control Act in fixing rent even if the provisions of the Rent Control Act were not applicable at village Belgahna. The writ petition was based on disputed

facts which could not be examined in the writ jurisdiction.

3. Learned Senior Counsel for the Appellant submits that no disputed facts were involved. Documentary evidence was available with regard to the agreed rent of Rs.1500/-. If the Rent Control Act was not applicable at village Belgahna, the Collector acted without jurisdiction. This illegal usurpation of power could not be justified on basis of analogy.
4. We had adjourned the matter on 11.12.2014 noticing the limited nature of controversy and required the Respondents to file counter affidavit. No counter affidavit has been filed despite adjournment granted further for the purpose.
5. The appeal can be disposed on a very short question and therefore we do not consider it necessary to consider all arguments advanced by the Learned Senior Counsel for the Appellant.
6. If village Belgahna did not fall within the area where the Rent Control Act applied, the Collector could not exercise powers under the Rent Control Act for fixing rent. The order of the Collector fixing the rent is held without jurisdiction. The agreed quantum of rent based on Annexure-P/11 dated 7.3.1994 at Rs.1500/- remains applicable between the parties with regard to the duration of tenancy. Arrears, if any, be paid within a maximum period of eight weeks from the date of receipt and/or production of a certified copy of this order before the concerned authority.



7. The appeal is allowed.

Sd/-
Acting Chief Justice

Sd/-
P. Sam Koshy
Judge

Anu