

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2108 of 2014

- Poonam Chand Agrawal S/o Lt. Natthulal Agrawal Aged About 62 Years R/o Abhishek Enterprises, Purana Moda Chal, Gourishankar Mandir Road Raigarh PS City Kotwali, Raigarh, Tahsil and District Dist. Raigarh Cg

---- Petitioner

Versus

1. Ma Vaishnav Project Through Partner Sushil Mittal S/o Shri Shiv Narayan Mittal aged about 42 years, R/o Nayaganj, Raigarh, Tahsil and District Raigarh (C.G.)
2. Sunil Kumar Agrawal S/o Shri Chaturbhuj Agrawal Aged About 47 Years R/o Danipara, Raigarh Tahsil and District Raigarh CG
3. Sub Divisional Officer(Revenue)/Rent Controller, Raigarh Tah. & Dist. Raigarh Cg

---- Respondent

And

WPC No. 1093 Of 2014

- Narsingh Das Agrawal S/o Lt. Natthulal Agrawal Aged About 64 Years Sole Proprietor Firm Narsingh Das Poonam Chand R/o In Front Of Town Hall Raigarh Tah. & Dist. Raigarh Cg

---- Petitioner

Vs

- Ma Vaishnav Project Through Partner Sushil Mittal S/o Shri Shiv Narayan Mittal aged about 42 years, R/o Nayaganj, Raigarh, Tahsil and District Raigarh (C.G.)
- Sunil Kumar Agrawal S/o Shri Chaturbhuj Agrawal Aged About 47 Years R/o Danipara, Raigarh Tahsil and District Raigarh CG
- Sub Divisional Officer(Revenue)/Rent Controller, Raigarh Tah. & Dist. Raigarh Cg

---- Respondent

And

WPC No. 2109 Of 2014

- Gulab Chand Agrawal S/o Late Shri Natthulal Agrawal Aged About 58 Years R/o Purana Moda Chal, Gourishankar Mandir Road Raigarh PS City Kotwali Dist. Raigarh Tahsil and District Raigarh CG

---- Petitioner

Vs

1. Ma Vaishnav Project Through Partner Sushil Mittal S/o Shri Shiv Narayan Mittal aged about 42 years, R/o Nayaganj, Raigarh, Tahsil and District Raigarh (C.G.)
2. Sunil Kumar Agrawal S/o Shri Chaturbhuj Agrawal Aged About 47 Years R/o Danipara, Raigarh Tahsil and District Raigarh CG
3. Sub Divisional Officer(Revenue)/Rent Controller, Raigarh Tah. & Dist. Raigarh Cg

---- Respondent

For Petitioners	Mr. Saurabh Sharma, Advocate
For Respondents 1 & 2	Mr. V.R. Tiwari and Mr. Hameeda Siddique, Advocates
For Respondent No.3/State	Mr. Arun Sao, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16 /2/2016

These three writ petitions were heard analogously even though the same have been filed by three different individuals and the cases are arising out of separate eviction proceedings pending before the Rent

Controller-cum-Sub Divisional Officer (Revenue), Raigarh (for brevity "the Rent Controller"), because in all the cases, the landlord is common and the issue concerning jurisdiction exercised by the Rent Controller is involved and, as such, all the petitions are disposed of by this common order.

(2) The landlord/respondents 1 & 2 have preferred eviction application under the provisions of the Chhattisgarh Rent Control Act, 2011 (for short "the Act") before the Rent Controller. While the eviction applications involved in WPC Nos. 2108 and 2109 of 2014 have been preferred by the landlord on 27.08.2014, in WPC No. 1093 of 2014, the application for eviction was filed on 02.09.2013.

(3) Questioning the jurisdiction exercised by the Rent Controller in taking cognizance of the eviction applications, it is argued that under the Act, the State Government is required to appoint one or more officers not below the rank of Deputy Collector, as Rent Controller with territorial jurisdiction as to be specified by the District Collector, however, such notification having not been issued in respect of the Rent Controller-cum-Sub Divisional Officer (Revenue), Raigarh, the said Rent Controller has no jurisdiction to take cognizance of the matter.

(4) In the return filed by the respondents, copy of the notification issued by the State Government on 11.12.2013 has been annexed, whereby, the Deputy Collector in each of the District has been appointed as the Rent Controller. Pursuant thereto, the Collector, Raigarh has issued a notification on 13.08.2014 to the effect that SDO (Revenue)/SDM shall exercise the powers of the Rent Controller within their respective territorial jurisdiction.

WPC Nos.2108 and 2109 of 2014

(5) Since in these petitions, the eviction applications were preferred on 27.08.2014 i.e. after issuance of notification by the State Government on 11.12.2013 and the order passed by the Collector, Raigarh on 13.08.2014, the SDO (Revenue), Raigarh had jurisdiction over the matter to take cognizance of the eviction applications, therefore, in respect of these two eviction applications, the Rent Controller had jurisdiction from the beginning to try the eviction applications, therefore, both the writ petitions deserve to be dismissed.

WPC No. 1093 of 2014

(6) In this petition, the eviction application was filed on 02.09.2013 i.e. before issuance of notification by the State Government on 11.12.2013 and the order of District Collector on 13.08.2014, however, on perusal of the complete order sheets of the proceedings before the Rent Controller, it does not appear that the Rent Controller has proceeded to pass any such order to determine the rights and liabilities of the landlord or the tenant, as the case may be.

(7) In **Abdulla Khan Vs. Tribhuan Dutt Singh (AIR 1941 Oudh 161)**, it has been held that where after presentation of a plaint in a wrong court jurisdiction is later on conferred on the Court to try such cases, the court cannot return the plaint in exercise of power under Order 7 Rule 10 of Code of Civil Procedure, 1908.

(8) In the case at hand also, when the eviction application was filed, there was no notification as required under Section 7 of the Act, however, subsequently, such notification was issued by the State Government on 11.12.2013 and, thereafter, the Collector, Raigarh, has

fixed the territorial jurisdiction vide its order dated 13.08.2014, therefore, since on and after 13.08.2014, the Rent Controller-cum-Sub Divisional Officer, Raigarh has jurisdiction over the matter and the proceedings have not yet reached to an advanced stage, it cannot be quashed on the ground that the Rent Controller-cum-Sub Divisional Officer, Raigarh, lacks jurisdiction to try the eviction proceedings. Accordingly, this writ petition also deserves to be dismissed.

(9) In the result, all the writ petitions stand dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

Gowri