

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.154 of 2016**

Narsingh Das Agrawal, S/o Late Shri Natthulal Agrawal, aged about 66 years, Sole Proprietor Firm Narsingh Das Poonam Chand R/o In front of Town Hall, Raigarh, Tahsil and District Raigarh, Chhattisgarh

---- Appellant

versus

1. Ma Vaishnav Project Through Partner Sushil Mittal S/o Shri Shiv Narayan Mittal, aged about 44 years, R/o Nayaganj, Raigarh, Tahsil and District Raigarh, Chhattisgarh
2. Sushil Kumar Agrawal, S/o Shri Chaturbhuj Agrawal, aged about 49 years, R/o Danipara, Raigarh, Tahsil and District Raigarh, Chhattisgarh
3. Sub Divisional Officer (Revenue)/Rent Controller, Raigarh, Tahsil and District Raigarh, Chhattisgarh

---- Respondents

For Appellant	:	Shri Sourabh Sharma, Advocate
For Respondent No.1	:	Shri V.R. Tiwari, Advocate
For Respondent No.2	:	Ms. Hamida Siddiqui, Advocate
For State/Respondent No.3	:	Shri U.N.S. Deo, Government Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Navin Sinha, Chief Justice

30/3/2016

1. The present appeal arises from order dated 16.2.2016 dismissing Writ Petition (C) No.1093 of 2014.
2. Learned Counsel for the Appellant submitted that the institution of the eviction suit before the Rent Controller on 2.9.2013 even before issuance of appropriate notification under Section 7 of the Chhattisgarh Rent Control Act, 2011 appointing the Sub-Divisional Officer (Revenue) in the capacity of the Rent Controller much less vesting of authority of the Collector to declare the jurisdiction of the Rent Controller dated 11.12.2013, the eviction suit ought to have been dismissed as not maintainable. The fact that a fresh eviction suit could have been filed after 13.8.2014 is a completely different

matter. The rejection of the objections filed by the Appellant to the suit as filed on 2.9.2013 was therefore not justified. During the pendency of the writ petition, interim stay had also been granted. The Rent Controller has passed orders even prior to 13.8.2014 including order dated 11.2.2014.

3. Learned Counsel for the contesting Respondent No.1 submitted that after dismissal of the writ petition fresh notice has been issued to the Appellant and for all purposes the eviction suit has commenced afresh with proper vesting of jurisdiction as on 13.8.2014. They have no objection to the order dated 11.2.2014 being declared as nullity at this stage but without prejudice to their rights to move afresh even according to the same in accordance with law. It is next submitted that pursuant to the fresh notice issued on 4.3.2016, the Appellant is avoiding appearance in the eviction suit even while he continues to pursue matters before this Court.

4. We have heard Learned Counsel for the parties.

5. In view of the admitted position that ultimately the Sub-Divisional Officer (Revenue) has been designated as a Rent Controller in accordance with law on 13.8.2014, the eviction suit can well be deemed to have commenced from 4.3.2016 and the order dated 11.2.2014 thereafter cannot be taken into consideration in its present form but without prejudice to the rights of Respondent No.1 to move afresh with regard to the same.

6. Procedures only being handmaid of justice, we are not inclined to take a hyper-technical view with a direction to return the plaint for fresh presentation achieving no practical purpose.

7. The next date fixed before the Rent Controller as we are informed is 11.4.2016. Now that the next date has been made known to the Appellant through his Counsel in the present proceedings it is in his interest to enter appearance with promptness on the next date fixed failing which the powers

of the Rent Controller shall remain unfettered with regard to the manner in which he would like to proceed in the matter in accordance with law.

8. The appeal is dismissed with aforesaid observations.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE