

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No.109 of 2014**

Mahant Das Vikas Das Guru Son of Late Mahant Shri Ram Bhushan Das, Aged about 30 years, R/o Through Jaitusao Math, Jyoti Pan Bhandar, Saraswati Chowk, Purani Basti, Raipur, P.S. City Kotwali, Civil and Revenue District Raipur (CG)

---- Applicant

Versus

Mohan Shrivastava Son of Shri Ganpat Shrivastava, Aged about 36 years, R/o Shri Gopinath Mandir, Baniyapara, Mahant Laxminarayan Das Ward Purani Basti P.S. City Kotwali, Tahsil Raipur, Civil and Revenue District Raipur (CG)

---- Respondent

 For Applicant : Mr.Punit Ruparel, Advocate
 For Respondent : Mr.Arvind Shrivastava, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****12/08/2016**

1. This Civil Revision under Section 23-E of the Chhattisgarh Accommodation Control Act, 1961 (henceforth 'the Act of 1961') is directed against the order dated 19.3.2014 passed by the Rent Controlling Authority, Raipur (hereinafter called as 'RCA') in Case No.10-90 (3)/2010-11, by which the applicant's application filed under Section 12 (1) a) and 12 (1) d) of the Act of 1961 has been rejected by the RCA on merits.

2. The applicant herein preferred an application under Section 12 (1) a) and 12 (1) d) of the Act of 1961 on the ground that the respondent is his tenant on the monthly rent of ₹ 1000/-, but has not paid the rent from December, 2007 till the date of filing of the application and suit accommodation has not been used by the respondent without reasonable cause for continuous period of more than six months and it has been

locked, therefore, the applicant is entitled for arrears of rent and eviction on the ground of Section 12 (1) a) and 12 (1) d) of the Act of 1961.

3. The respondent remained ex-parte before the RCA.

4. The RCA by its impugned order dated 19.3.2014 rejected the application finding no merit.

5. Against which, the present civil revision has been filed.

6. Mr.Punit Ruparel, learned counsel appearing for the applicant, would submit that the learned RCA has committed jurisdictional error in rejecting the application under Section 12 (1) a) and 12 (1) d) of the Act of 1961, therefore, the impugned order deserves to be set aside and order for eviction be granted in favour of the applicant.

7. Mr.Arvind Shrivastava, learned counsel appearing for the respondent, would submit that the applicant is not landlord of a special category as defined under Section 23-J of the Act of 1961 and therefore, he cannot be invoked the provision of Section 23-A of the Act of 1961 i.e. special provision for eviction of tenant on the ground of bonafide requirement and as such, the applicant's application has rightly been rejected by the RCA.

8. I have heard learned counsel appearing for the parties, considered rival submissions and gone through the record with utmost circumspection.

9. First question for consideration would be whether the applicant is landlord of a special category as defined under Section 23-J of the Act of 1961.

10. It would be advantageous at this stage to refer the provision which

deals with a landlord of a special category. Chapter III-A of the Act of 1961 deals with the eviction of tenants on the ground of bonafide requirement. Section 23-A of the Act of 1961 is a special provision and the said chapter prescribes a summary proceedings.

11. A careful perusal of Chapter III-A of the Act and more particularly Section 23-A of the Act of 1961 makes it apparent that the eviction can be sought for on the ground of bonafide requirement under Section 23-A of the Act of 1961.

12. For this, Section 23-J of the Act of 1961, which defines a landlord of a special category is required to be noticed. Section 23-J of the Act of 1961 reads as under:-

“23-J. Definition of landlord for the purposes of Chapter IIIA.- For the purpose of this Chapter 'landlord' means a landlord who is-

- (i) a retired servant of any Government including a retired member of Defence Services; or
- (ii) a retired servant of a company owned or controlled either by the Central or State Government; or
- (iii) a widow or a divorced wife; or
- (iv) physically handicapped person; or
- (v) a servant of any Government including a member of defence services who, according to his service conditions, is not entitled to Government accommodation on his posting to a place where he owns a house or is entitled to such accommodation only on payment of a penal rent on his posting to such a place.”

13. From perusal of the application, it appears that applicant-Mahant

Ram Vikas Das Guru does not fall under any of the class enumerated in Section 23-J of the Act of 1961, therefore, he cannot invoke the provision of Section 23-A of the Act of 1961, which is a special provision for eviction of tenant on the ground of bonafide requirement, therefore, the application itself was not maintainable before the RCA.

14. There is an additional reason for not upholding the order of the RCA. Order of eviction can only be granted on the ground of bonafide requirement particularly under Section 23-A (a) and (b) of the Act of 1961. Eviction under Chapter III-A of the Act cannot be granted for non-payment of arrears of rent and not using the accommodation for more than six months, therefore, I hold that the applicant is not a landlord of a special category within the meaning of Section 23-J of the Act of 1961. Even otherwise, application for eviction under Section 12 (1) a) and 12 (1) d) of the Act of 1961 is not maintainable before the RCA.

15. I do not find any merit in this revision. Resultantly, the civil revision is dismissed. However, liberty is reserved to the applicant to avail the remedy relating to eviction on the ground of Section 12 (1) a) and 12 (1) (d) of the Act of 1961 before the Court of competent jurisdiction. No order as to cost(s).

Sd/-

(Sanjay K Agrawal)
Judge

B/-