

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 788 of 2015

1. Kailash Agrawal S/o Late Ramnivash Agrawal, Aged About 45 Years R/o Old Sadar Bazar, P.S. - Kotwali, Raigarh District Raigarh (C.G.)
2. Smt. Dropati Devi Agrawal, W/o Ramnivash Agrawal R/o Old Sadar Bazar, P. S. - Kotwali, Raigarh District Raigarh (C. G.)

---- Petitioners

Versus

1. Deleted (Rent Control Authority)
2. Shyam Sunder Agrawal, S/o Late Harichandmal Agrawal, Aged About 62 Years R/o Old Sadar Bazar, Raigarh District Raigarh (C. G.)
3. Ramkishan Dalmiya, S/o Amichand Dalmiya, Occupation - Business, R/o Palace Road, Raigarh, Distt. - Raigarh (C. G.)

---- Respondents

For Petitioners	:	Shri Amit Kumar Sharma, Advocate
For Respondent No.2	:	Shri Amrito Das, Advocate
For Respondent No.3	:	Shri Mayank Chandrakar, Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

31/03/2016

Heard.

1. At the outset, a serious objection has been made to the maintainability of the petition on the ground that under Section 13 of the Chhattisgarh Rent Control Act, 2011, an appeal lies before the Rent Control Tribunal.
2. Learned counsel for the petitioners submits that this petition was filed at the

stage when there was no Rent Control Tribunal functional. Learned counsel for the petitioners submits that as the petition has already been entertained by this Court, existence of alternative remedy is not an absolute bar and in the peculiar circumstances of the case, this Court may entertain the petition. In the alternative, it is submitted that even if the petition is held to be not maintainable on the ground of existence of alternative remedy, the petitioners may be granted breathing time to approach the Rent Control Tribunal and the interim order passed by this Court may be continued for some period.

3. True it is that existence of alternative remedy is not an absolute bar, but once there exists a statutory efficacious remedy, there should be extraordinary reasons for the Court not to insist on exhaustion of alternative remedy. At the time when the petition was filed, the petition was entertained because it was submitted that the Tribunal has not become functional. Now there is no dispute amongst the parties that the Rent Control Tribunal has become functional.
4. It is a case of dispute of landlord - tenant and there is no reason that this Court should entertain the petition when there is an alternative remedy of appeal before the Rent Control Tribunal. The petitioners are at liberty to file appeal under Section 13 of the Act.
5. Prayer for extending interim relief cannot be granted to the petitioners in view of order passed by the Division Bench in the case of **Punjab National Bank & Anr. Vs. Holistic Foundation Bhilai & Ors.**¹, wherein the Division Bench has held that once the Court holds the petition to be not maintainable, interim order should not be passed.
6. With the liberty as aforesaid, the petition is dismissed.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge

Praveen

¹ Writ Appeal No.119 of 2016 decided on 15.3.2016