

**HIGH COURT OF CHHATTISGARH, BILASPUR****Civil Revision No.89 of 2014**

Smt.Santosh Devi Jain, 63 Yrs. Wd/o. Ramavtaar Jain, Jindal Cloth Emporium, Manin Road, PO & Distt.Bhavani Patna (Odisha)

---Applicant

**Versus**

Yashwinder Khurana, 43 Yrs. S/o G.S. Khurana, Shop No.29, Amrit Sarri Polish, Mahalakshmi Market, Pandri, Raipur

---Respondent

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| For Applicant  | : | Mr.Raja Sharma, Advocate   |
| For Respondent | : | Mr.Ankur Agrawal, Advocate |

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order on Board**

**14/07/2016**

1. Heard on I.A.No.1 for condonation of delay in filing the revision.
2. Sufficient cause has been shown by the applicant, therefore, I.A.No.1 is allowed. Delay in filing the revision is condoned.
3. The applicant/landlady filed an application under Section 23J of the Chhattisgarh Accommodation Control Act, 1961 (henceforth "the Act of 1961") for eviction of the respondent from the suit premises.
4. During pendency of this application, the Chhattisgarh Rent Control Act, 2011 came into force w.e.f. 6<sup>th</sup> November, 2012 and by virtue of Section 12(2) of the Chhattisgarh Rent Control Act, 2011 (henceforth "the Act of 2011"), she is entitled to maintain for eviction, therefore, she be permitted in view of the legislature change.
5. The applicant made an application under Section 23 (1) read with Section 151 of the CPC for withdrawal of the said application with permission to file new application under the Act of 2011.
6. Learned trial Court by its impugned order rejected the same that such permission cannot be granted.
7. I have heard learned counsel for the parties.

**8.** Since new Act has been came into force on 6<sup>th</sup> November, 2012 and the applicant is ready and willing to withdraw the instant application originally filed under the Act of 1961 to file a fresh application under the Act of 2011, I do not find any legal bar in permitting to withdraw this application and file a fresh application under the Act of 2011.

**9.** Accordingly, the order impugned is set aside. The applicant is permitted to withdraw her application earlier filed under Section 23J of the Act of 1961. Her application under Section 23 (1) read with Section 151 of the CPC is allowed and further she is at liberty, if so advised, for taking recourse to the provisions contained in the Act of 2011.

**10.** With the aforesaid observation, the civil revision is disposed of.

**Sd/-**

**(Sanjay K. Agrawal)**  
**JUDGE**

B/-