

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2051 of 2016

1. Habib Ahmed Qureshi S/o Late Shri Maksud Ahmed Qureshi, Aged About 58 Years R/o 1-F, Street No 4, Khursipara 3, Tahsil Bhilai, Police Staiton Khursipara, District Durg Chhattisgarh

---- Petitioner

Versus

1. C.G. Rent Control Tribunal Through The Secretary Shastri Chowk Raipur District Raipur Chahttisgarh
2. Abdul Kalim, S/o Sayyad Abdul Halim, Aged About 58 Years R/o Faiz Nagar, Talapara, Tahsil Bilaspur, District Bilaspur Chahttisgarh

---- Respondent

For Petitioner

Shri Prateek Sharma, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/08/2016

1. In an application preferred by the respondent tenant for restoration of electricity in the tenanted premises the Rent Controlling Authority passed an order on 18-3-2016 whereby the application filed by the tenant was rejected and the petitioner's counter claim for eviction of the tenant has been allowed.

2. Challenging the order, the tenant preferred an appeal before the Rent Control Tribunal, Chhattisgarh, wherein the impugned order has been passed to affirm the order passed by the Rent Controlling Authority against the tenant as also to set aside the said part of the order whereby the petitioner's counter claim was allowed.
3. Learned counsel for the petitioner would draw attention of the Court to para 20 of the impugned order wherein the Rent Control Tribunal has observed that when examined in Court the landlord has denied to have moved any application for eviction of the tenant, therefore, the said relief could not have been allowed by the Rent Controlling Authority. It is, thus, argued that if no application was ever preferred by the petitioner, as observed by the Rent Control Tribunal, there was no occasion before the Rent Control Tribunal to decide the application on merits. Learned counsel would next submit that if this order is allowed to stand and the petitioner is not granted liberty, any further application for eviction of the tenant may attract the principles of *res judicata*. He would lastly submit that the landlord is willing to move fresh application for eviction of the tenant on the same ground or on any other or additional ground for which liberty may be reserved.

4. In view of the above submission, this writ petition is disposed of with an observation that the petitioner may prefer fresh eviction proceeding against the tenant on the same ground or on any other ground or additional ground, as permissible in law.

Sd/-

Judge
Prashant Kumar Mishra

Gowri