

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2623 of 2017**

1. Smt. Kamla Shrivasa, W/o Late Shri Laxman Shrivasa, aged about 60 years
2. Anil Shrivasa, S/o Late Shri Laxman Shrivasa, aged about 42 years
3. Deepak Shrivasa, S/o Late Shri Laxman Shrivasa, aged about 40 years

All are R/o. Godpara Bilaspur, P/s. and Block Bilaspur, District Bilaspur (C.G.)

---- Petitioners**Versus**

Dr. Manmohan Albert Das, S/o. Late Shri Josef Charles Das, R/o. Magarpara
Bilaspur, Block & District Bilaspur (C.G.)

---- Respondent

For Petitioners	:	Shri Jeet Patel, Advocate
For Respondent	:	None

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

Order on Board**Per, Thottathil B. Radhakrishnan, Chief Justice****26/09/2017**

1. Heard the learned counsel for the Petitioners.
2. This is an application under 'Article 226/227' of the Constitution seeking intervention with the decision of the Rent Control Tribunal passing an order of eviction under the Chhattisgarh Rent Control Act, 2011 (hereinafter referred to as the '2011 Act'), setting aside the Rent Controller's order dismissing the application for eviction under Section 12(2) read with Schedule-2, Serial No. 11 (h) which provides a landlord's right to seek an order of eviction of the tenant on the ground that, in spite of 6 months notice to the tenant in writing, the tenant is continuing in occupation. The said provision is specific to the effect that such notice by the landlord could be without any obligation to assign any reason. It is not in dispute that such a

notice was issued and the period 6 months prescribed under that provision had run out before the institution of the application for eviction before the Rent Controller. Therefore, we do not find any illegality or error of jurisdiction to set aside the impugned order on this count.

3. The learned counsel for the Petitioners argued that in terms of sub-section (2) of Section 14 of the 2011 Act, the prior proceeding initiated by the landlord against the tenant initiated under the previous enactment; and which had been found against him by the Civil Court would preclude a fresh application under the 2011 Act, inasmuch as, the landlord can only carry forward that proceeding and cannot institute a proceeding under the 2011 Act. This is the effect of sub-section (2) of Section 14 of the 2011 Act. Such saving clause which operates to exclude the pending proceedings under the Chhattisgarh Accommodation Control Act, 1961 (hereinafter referred to as the '1961 Act') from the purview of 2011 Act, cannot be utilized to anchor the plea that the proceeding initiated under the prior Act is one which alone could be carried forward and the landlord does not have any right to initiate proceeding under the 2011 Act, even if he has lost or withdrawn the earlier proceedings under the 1961 Act. Hence, the Petitioners' plea fails. Sub-section (1) of Section 14 of the 2011 Act provides for repeal of the 1961 Act which is the previous enactment. Sub-section (2) of Section 14 of the 2011 Act is one which authorizes the continuation of proceedings initiated under the previous enactment, namely, the 1961 Act, notwithstanding its repeal by virtue of sub-section (1) of Section 14 of the 2011 Act.

4. Section 14 of 2011 Act reads as follows:-

“14. Repeal and Savings.- (1) On this Act, becoming law, through notification in the Official Gazette, the Chhattisgarh Accommodation Control Act, 1961 (No.XLI of 1961) in its application to the State of Chhattisgarh is hereby repealed.

(2) The repeal under sub-section (1) shall not affect the previous operation of this enactment so repealed and anything

done or action taken or deemed to have been done or taken (including any appointment or delegation made, notification, order, direction or notice issued, or rules made), by or under the provisions of the repealed enactment shall, so far as it is not inconsistent with provisions of this Act, be deemed to have been done or taken under the provisions of this Act and shall continue in force unless and until suspended by anything done or any action taken under this Act.”

5. Section 9 (2) of the 2011 Act enjoins that all proceedings before the Rent Controller shall ordinarily conclude within six months from the date of first appearance of the respondent in response to the summons issued for his appearance in the case or from the date on which the respondent is set *ex-parte*. Section 10 (2) of that Act provides that Rent Control Tribunal shall not grant any adjournment without written application and recording the reasons therefor in writing. If a litigation under the 2011 Act, that too, even on a ground referable to the landlord's right under Serial No. 11 (h) in Schedule-2 is dragged by the tenant for years, that will result in manifest miscarriage of justice. It has to be remembered that when eviction is ordered under that provision, the landlord will stand tied down to the condition that he shall not let out the same premise for any enhanced rent for a further period of one year. This is also an indicator that the Rent Controller and the Tribunal as well as the authorities before which judicial review is sought for, ought to make every effort to conclude such proceedings at the earliest.
6. In the light of what is stated aforesaid, we see no substance in this writ petition. It fails.
7. In the result, the writ petition is dismissed in *limine*.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge