

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3368 of 2017**

Om Prakash Thakkar S/o Shri Bhagwan Ji Bhai Thakkar, Aged About 51 Years R/o In Front Of Patel Niwas Tikrapara Bilaspur Thana Tarbahar Civil & Revenue District Bilaspur Chhattisgarh.

---- Petitioner

Versus

Firm Kothari Brothers Through Its Partner Hasmukhrao Kothari , R/o In Front Of Patel Niwas Tikrapara Bilaspur Thana Tarbahar Civil & Revenue District Bilaspur Chhattisgarh.

---- Respondent

For Petitioner	: Shri Sameer Singh, Advocate
For State	: Shri Ankit Pandey, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Sharad Kumar Gupta, Judge

Order On Board

Per Thottathil B. Radhakrishnan, Chief Justice

13/12/2017

1. Heard learned counsel for the petitioner in this petition under Article 227 of the Constitution and the learned counsel for the respondent who has entered appearance at the stage of admission. Under challenge is the decision of the Rent Control Appellate Tribunal confirming an order of eviction passed by the Rent Controller under Section 12(2) Schedule 2 Sl. No. 11 (a) of the Chhattisgarh Rent Control Act, 2011; 'Act' for short.
2. It is not disputed by the petitioner that he is a tenant of the building, inasmuch as he had been paying rent to its previous owner. He also does not dispute that the owner of the property transferred title to the respondent in December 2015. Such transfer of property was notified to the tenant. Obviously, therefore, the tenant ought to have attorned to the transferee-landlord. The challenge by the tenant to the title of the landlord,

by denying a landlord tenant relationship as between him and the respondent, cannot be treated as a *bonafide* denial of title inasmuch as all that the petitioner contends is that he had been paying rent to the previous owner. The finding of the Rent Controller as affirmed by the Tribunal that the title of the respondent is established to the extent required to sustain an application for eviction under the Act does not therefore warrant interference in exercise of authority under Article 227 of the Constitution.

3. The ground on which the landlord obtained the order of eviction is arrears of rent. It is not as if the petitioner concedes to the fact of default and claimed to be given an opportunity to pay up. He has consistently contested for the position; and has asserted even this in this writ petition, that he is not in default in payment of rent. Taking all the attendant facts and circumstances of the case into consideration, we are of the view that the decision of the Rent Controller, as affirmed by the Tribunal, on the issue of arrears of rent, is not one to be visited in exercise of the supervisory jurisdiction under Article 227 of the Constitution.
4. Be that as it may, we are inclined to take a lenient view and grant the petitioner a reasonable time frame to vacate. We have heard the learned counsel for the parties even in this regard.
5. In the result, this writ petition is ordered in the following terms :-
 - (i) The challenge levied to the decision of the Rent Control Tribunal and the Rent Controller are rejected.
 - (ii) The petitioner/tenant is granted time till 30/04/2018 to deliver vacant possession to the respondent-landlord on condition that the petitioner/tenant pays to the landlord an amount equivalent to Rs.200 x 30 = 6000/- (being the compensation for use and occupation for the period of 30 months which will be from 01/01/2016 till the expiry of time granted for vacating the premises).
 - (iii) If there is any execution proceedings pending for effecting

delivery, the same may be carried forward in tune with the time schedule fixed in this order.

(iv) If there is default by the petitioner in making payment in terms of the directions contained in this order, the benefit granted to the petitioner in terms of this order will stand recalled automatically and the respondent will be at liberty to take delivery of the premises forthwith.

(v) No costs.

Sd/-

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

(Sharad Kumar Gupta)
Judge