

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (C) No. 2353 of 2016**

Sadhna Bajpai, W/o Late Shri Ramakant Bajpai, Aged about 71 years, R/o- Bajpai Ground, Tilaknagar, District – Bilaspur (C.G.)
.... Landlord

---- Petitioner**Versus**

1. Sevakraam Bhojwani, S/o Shri Jeevatram Bhojwani, Aged about 83 years, Subhash Nagar, Gondpara, Bilaspur (C.G.)
.....Tenant

2. Rent Controller, District Bilaspur (C.G.)

---- Respondents

For petitioner : Mr. Manoj Paranjpe, Advocate.
For Respondent No.1: Mr. Ravindra Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****12/07/2017**

Heard.

(1) In an application filed the petitioner-Landlady under Section 11(h) of the Chhattisgarh Rent Control Act, 2011 (for short 'Act,2011) for eviction of the suit shop, respondent No.1-tenant moved an application stating that suit shop has been recorded in the revenue records in the name of Badri Prasad (petitioner's father-in-law) and, therefore, the application for eviction of the suit shop is not maintainable and the legal representatives of Badri Prasad, who are co-owners of the suit shop, are to be impleaded as necessary party. That objection has been allowed by the Rent Controller Bilaspur, against which instant writ petition has been filed questioning the same.

(2) Learned counsel for the petitioner submits that the petitioner, in the capacity of landlady as defined in Section 2(5) of the Act, 2011, has filed an application for eviction of suit shop and, thus, co-owners are neither necessary party nor proper party for just decision of the matter and, therefore, impugned order is liable to be set aside.

(3) On the other hand, counsel for the respondent would support the impugned order.

(4) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(5) It is not in dispute that the petitioner has filed application for eviction for the suit shop claiming her to be the landlord within the meaning of Section 2(5) of the Act, 2011 and according to her other legal representatives of Badri Prasad and even co-owners are not the necessary party to be impleaded as party respondents in the application for eviction.

(6) In the matter of **Kasthuri Radhakrishnan and others Vs. M.Chinnayan and another** reported in **(2016) 3 SCC 296**, their Lordships of the Supreme Court have held that joinder of all co-owners of the tenanted premises are not necessary.

(7) In view of the principle of law laid down by their Lordships of the Supreme Court in the matter of **Kasthuri Radhakrishnan and others** (supra), this court is of the opinion that joinder of all co-owner of the tenanted premises are not necessary in the application filed by the petitioner under Schedule 2 enacted under Section 12(2) (clause g & h) of the Act, 2011 and, therefore, order impugned passed by the

respondent No. 2 -Rent Controller for impleading co-owners of the suit premises as respondents party is liable to be set set aside.

(8) Accordingly, the writ petition is allowed. Impugned order dated 21.06.2016 is set aside. The matter is remitted back to the Rent Controller, Bilaspur to consider and dispose of the application for eviction of the suit shop filed by the petitioner expeditiously preferably within a period of two months from the date of receipt of copy of this order.

(9) Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-