

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2484 of 2016

Smt. Pando Bai W/o Late Shri Panduram Jhadi, Aged About 48
Years R/o F O H Colony, Q. No. 552 Bacheli, Tahsil & District
Dantewada (Chhattisgarh) **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue
Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District
Raipur (Chhattisgarh)
2. Collector, Bijapur, District Bijapur Chhattisgarh
3. Assistant Commissioner, Tribal Development, Bijapur, Dist. Bijapur
(Chhattisgarh)
4. Sub Divisional Officer (Revenue), Bhopalpatnam, District Bijapur
(Chhattisgarh)
5. Tahsildar, Usoor Head Office Aavapalli, District Bijapur
(Chhattisgarh)
6. Block Education Officer, Usoor Head Office Aavapalli, District
Bijapur (Chhattisgarh)
7. Sub Engineer, R. E. S. Sub Division, Usoor, District Bijapur
(Chhattisgarh) **---- Respondents**

For Petitioner	:	Mr. Mateen Siddiqui, Advocate
For State	:	Mr. Dheeraj Wankhede, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

25/04/2017

Heard.

1. The petitioner has filed this petition seeking a direction for payment of rent at the rate of Rs.9461.83/- per month from October, 2012; direct respondent to grant rent as per the rent fixation schedule issued by the Sub-Engineer, R.E.S. Sub-Division, Ussor, Bijapur and not as per the order of the Collector. In the alternative, prayer has been made for directing the respondent to vacate petitioner's house.

2. In this case, taking into consideration the pleadings of the parties that the house of the petitioner was taken under an oral agreement without there being any agreement in writing, there being a dispute with regard to the rate of rent and that the petitioner alleging that she was not paid a single penny ever since from October, 2012, this Court directed the respondent to pay the undisputed amount to the petitioner and towards that it was directed that a draft shall be prepared for payment of rent to the petitioner in respect of the period of occupation at the rate of Rs.3,500/-
3. Learned counsel for the State has submitted an application for taking demand draft on record. The demand draft of Rs.1,50,500/- has been attached with the application.
4. This draft is towards payment of an amount at the rate fixed by the respondent themselves, though disputed by the petitioner. The rent is in respect of the period from October, 2012 to April, 2016. I am inclined to allow this amount to be taken by the petitioner. For this purpose, the petitioner—Smt. Pando Bai, duly identified by Mr. Mateen Siddiqui, Advocate shall appear before the Registrar (Judicial) today, itself and draft shall be handed over to the petitioner under an acknowledgment which shall form of record.
5. There appears to be a dispute between the parties with regard to the rate of rent. Even according to the petitioner, as averred in para 8.2 of the petition, there was an oral agreement. The respondent disputes the rate as alleged by the petitioner. This would require a factual enquiry into disputed question of fact.
6. Learned State counsel points out to this Court that there is a remedy of appeal provided under Section 13 of the Chhattisgarh Rent Control Act, 2011 and the petitioner may approach the Rent Control Tribunal, if the petitioner is aggrieved by order dated 06.05.2016 (Annexure P/1).
7. Having heard on this aspect, I am inclined to allow the petitioner to prefer an appeal before the Tribunal raising all grounds as may be available to her under the law towards her claim of rent of Rs.9461.83/- per month. Considering that the petitioner challenged

the order of fixation of rent by the Collector by filing this petition, it is directed that in case, petitioner prefers an appeal within a period of 60 days from today, the Rent Control Tribunal shall decide the appeal on merits without going into the question of limitation.

8. According to the State counsel, the respondents have already vacated the premises. It will be open for the petitioner to take possession of the premises.
9. The petition is finally disposed off.
10. Certified copy today.

Sd/-

(Manindra Mohan Shrivastava)

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