

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 137 of 2014**

1. Smt. Chetana W/o Satendra Aged About 32 Years R/o Mohan Nagar Jagdalpur, PS Kotwali, Distt Bastar, Chhattisgarh

---- Petitioner**Versus**

1. Prabhudayal Dewangan, R/o Thakur Road, Ps Kotwali, Jagdalpur, Distt Bastar, Chhattisgarh
2. Sub Divisional Officer Bastar S.D.M. Office Ps Kotwali Jagdalpur, Distt Bastar, Chhattisgarh
3. Station House Officer PS Kotwali, Jagdalpur, Distt Bastar Chhattisgarh
4. State Of Chhattisgarh, Through The Secretary Department Of Home Revenue Sachivalaya P. S. Rakhi Naya Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Petitioner	Shri P.K. Tulsyan, Advocate
For Respondent No.1	Shri B.P. Sharma, Advocate with Shri Raja Ali, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Order On Board**By****Prashant Kumar Mishra, J.****20/08/2018**

1. On bare perusal of the impugned order Annexure P/1, it appears the learned Rent Controlling Authority, Jagdalpur (for short 'the RCA') has acted in excess of jurisdiction by directing the petitioner/tenant's eviction in a proceeding commenced on the petitioner's application for restoration of electricity and water supply.

2. It appears while filing reply to the tenant's application, the landlord complained of unnecessary and vexatious proceedings drawn by the tenant on which the RCA has passed the order impugned directing the tenant to handover the vacant possession of the premises to the landlord.
3. Under the scheme of provisions contained in the Chhattisgarh Rent Control Act, 2011 (for short 'the Act, 2011') an application for recovery of possession of premises has to be moved by the landlord under Section 9 of the Act, 2011 and thereafter the RCA has to follow the procedure prescribed under Section 10 of the Act, 2011 before passing the final order of eviction.
4. The provisions contained under the Act, 2011 do not contemplate a cross-objection or counter claim to be moved by the landlord in an application preferred by the tenant for restoration of essential supply. Even if the respondent landlord has initially filed the reply and thereafter, moved an application under Section 9 on 3-1-2014, the fact remains that order on the said application has been passed on the same date without following the procedure prescribed under the Act, 2011.
5. The impugned order is otherwise cryptic, unreasoned and without any discussion of the case of the parties. Therefore, from all possible angles, the impugned order suffers from error of jurisdiction and cannot be sustained in law.

6. Accordingly, the impugned order (Annexure – P/1) is quashed. Both the parties are at liberty to secure their rights under the Act, 2011 in accordance with law.
7. At this stage, Shri P.K. Tulsyan, learned counsel appearing for the petitioner, would submit that pursuant to the impugned order the concerned police has seized and attached certain properties belonging to the petitioner for which a panchnama has been prepared vide Annexure – P/5.
8. As a consequence of impugned order having been quashed, it is directed that the seized articles be released in favour of the petitioner within a period of three weeks from the date of presentation of certified copy of this order by the petitioner before the RCA and the concerned Station House Officer (SHO).
9. In the result, the writ petition is allowed to the extent indicated above, leaving the parties to bear their own costs.

Sd/-

Judge
Prashant Kumar Mishra

Gowri