

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 19.01.2018

Delivered on 23.01.2018

Writ Petition (C) No. 130/2018

(Arising out of order dated 15-12--2017 in Appeal No. 69A/2017 of the Rent Control Tribunal, Raipur)

Govindram Adwani S/o Late Narayan Das Adwani Aged About 65 Years R/o Calcutta Menswear in front of Vivekanand Park Bilaspur District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Narendra Singh Sahgle S/o Late Nanak Singh Shegal Aged About 73 Years R/o H2 / B3 Narmada Nagar Bilaspur District Bilaspur Chhattisgarh.
2. Chhattisgarh Rent Control Tribunal Raipur Chhattisgarh Through Its Registrar, Chhattisgarh
3. Rent Controller Authority Bilaspur Chhattisgarh,
4. Vimla Lumba W/o Surjit Singh Lumba Aged About 79 Years R/o 37 Sector B , Qtr. No. 1260 Chandigarh , District Chandigarh . Chandigarh

---- Respondents

For Petitioner	:	Dr. N.K. Shukla, Sr. Adv. with Shri Vikram Sharma, Adv.
For Respondent No. 1	:	Shri Ali Asgar, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****CAV ORDER****Per Sharad Kumar Gupta, Judge**

1. In this writ petition, challenge is levied to the order dated 15-12-2017 vide Annexure P-10 passed by the Chhattisgarh Rent Control Tribunal, Raipur in Appeal No. 69A/2017 whereby and whereunder he dismissed the appeal preferred by the appellant against the order dated 6-11-2017 passed by the Rent Controller, Bilaspur whereby he ordered the appellant to handover the vacant possession of the disputed shop to the respondent no. 1 and also pay him Rs. 40,600/- as arrears of rent.

2. This is admitted by the appellant that he had taken the disputed shop from respondent No. 4 Smt. Vimla Lumba on rent at the rate of Rs. 350/- per month. He had not paid any rent to the respondent No. 1 Narendra Singh Sahgle.
3. In brief, case of the respondent No. 1 is that he had purchased the disputed shop along with other shops and dais on 18-3-2008 by a registered sale deed. He had intimated this fact to the appellant by a registered notice. He had also given a notice under clause 11 (h) of Schedule II, Section 12(2) of the Chhattisgarh Rent Control Act, 2011 (hereinafter referred to as 'Act of 2011'). Despite receiving the notice, the appellant had not delivered him vacant possession of the disputed shop and also not paid arrears of rent.
4. In brief, the case of the appellant is that respondent No. 4 Smt. Vimla Lumba had not sold out the disputed shop to respondent No. 1. Thus, respondent No.1 is not the landlord of the disputed shop. Hence, there is no relationship of landlord and tenant between them. He is tenant of respondent No. 4.
5. The Rent Controller, Bilaspur and the CG Rent Control Tribunal, Raipur passed the orders as aforesaid. Being aggrieved, the appellant preferred this writ petition.
6. Dr. N.K. Shukla, Sr. Counsel argued that the registered sale deed Ex. D/1 is a contingent contract. Thus no title passes to respondent No. 1 regarding disputed shop, hence the appellant is not the tenant of respondent No. 1. In other words, respondent No. 1 is not the landlord of the disputed land. Because there is

no relationship of landlord and tenant between them, thus the Act of 2011 is not applicable.

7. Shri Ali Asgar, counsel for respondent No. 1 submitted that appellant has no locus standi to challenge the aforesaid registered sale deed. By the aforesaid registered sale deed, he became land lord of the disputed shop and the appellant became his tenant. Thus the orders passed by the Rent Controller, Bilaspur and the Rent Control Tribunal, Raipur are justified and in accordance with law and no interference by this Court is required by exercising its supervisory jurisdiction vested under Article 227 of the Constitution of India. Only respondent No. 1 and the respondent No. 4 were competent to challenge the aforesaid registered sale deed. The appellant has no authority to challenge the same on any ground.
8. The appellant had put the photocopy of the bank account of respondent No. 4 before the Rent Control Tribunal wherein it is mentioned that the account has been closed on 28-1-2009. Thus, it is clear that respondent No. 4 was not inclined to receive the rent of disputed shop through the above mentioned closed bank account.
9. As per notice Ex. P-4-C, the respondent No. 4 had intimated the appellant that she had sold out the disputed shop to the respondent No. 1, thus the rent should be given to him.
10. During the cross-examination of respondent No. 1, some questions were put by the appellant. Replying those questions, respondent No. 1 had said that respondent No. 4 talked with the

appellant. So many times, negotiation took place between him and the appellant regarding fixation of the quantum of rent of the disputed shop. These statements could not be said not natural.

11. Looking to the above mentioned circumstances it establishes that respondent No.1 is the landlord of the disputed shop and the appellant is his tenant.
12. The appellant has not challenged the aforesaid notice given by the respondent No. 1 to him under Clause 11(h) of Schedule II and Section 12(2) of the Act of 2011.
13. Looking to the above-mentioned facts and circumstances, this Court finds that the Rent Controller, Bilaspur and the Rent Control Tribunal, Raipur have not committed any illegality or caused miscarriage of justice while passing the impugned orders.
14. In **Khimji Vidhu v. Premier High School {AIR 2000 SC 3495}** the Hon'ble Supreme Court has laid down that findings of fact could not have been interfered by the High Court in exercise of its jurisdiction under Article 227 of the Constitution. Jurisdiction under Article 227 of the Constitution must be sparingly exercised and may be exercised to correct errors of jurisdiction and the like but not to upset pure findings of fact, which falls in the domain of an Appellate Court only.
15. In **D.N. Banerji v. P.R. Mukherjee {AIR 1953 SC 58}** the Hon'ble Supreme Court observed that unless there has been grave miscarriage of justice or flagrant violation of law calling for interference, it is not for the High Court under Articles 226 and 227 of the Constitution to interfere.

16. In the light of the facts and materials on record and the circumstances of the case and judicial precedents, this Court finds that the writ petition being devoid of merit deserves to be dismissed. However, the learned Senior Counsel appearing for the petitioner submitted that the writ petitioner may be given a reasonable time frame to deliver the possession. We record the submission.
17. In the result, this writ petition is ordered as follows :-
- (i) The impugned order dated 15-12-2017 of the Chhattisgarh Rent Control Tribunal, Raipur, is confirmed.
 - (ii) The Petitioner- Govindram Adwani is granted 4 months time to vacate the premises on condition that he pays the Respondent No. 1- Narendra Singh Sahgle, the landlord, the arrears of rent from 18-3-2008 till January, 2018 at the rate of Rs. 350/- per month, within a period of 10 days from the date of this order and continues to pay the use and occupation charges at the same rate till the possession is delivered. If these conditions are satisfied, the petitioner will have four months time to continue in possession.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge