

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1255 of 2017**

1. Bhupendra Singh Chouhan S/o Shri Ganga Singh Chouhan, Aged About 43 Years R/o Ramrani Bada Tikrapara, Jagmal Block Ward No. 34 Bilaspur, Thana Tarbahar, Civil And Revenue District Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. Nandlal Gupta S/o Late Shri Lakkhi Narayan Gupta, Aged About 31 Years R/o Ramrani Bada Tikrapaa, Jagmal Block Ward No. 34 Bilaspur, Thana Tarbahar, Civil And Revenue Distt. Bilaspur Chhattisgarh.

---- Respondent

For Petitioner

Shri Samir Singh, Advocate

For Respondent

Shri Ritesh Verma, Advocate

Hon'ble Shri Justice Ajay Kumar Tripathi, CJ
Hon'ble Shri Justice Prashant Kumar Mishra

Order on Board**Per Ajay Kumar Tripathi, CJ.****14/08/2018**

1. Heard learned counsel for the parties.
2. Petitioner is the tenant, if not the husband of the tenant. He has assailed the order dated 20-4-2017 passed by the Chhattigarh Rent Control Tribunal, Raipur (for short 'the Tribunal') in appeal No.55-A/2016 (Nandlal Gupta v Bhupendra Singh Chouhan). The appeal has been allowed and direction has been issued upon the petitioner to handover the property in question within a month and also pay the arrears of rent which has not been paid and which became one of the grounds seeking eviction.

3. The facts, behind the present dispute, are that the respondent Nandlal Gupta is said to be the purchaser of the property in question of which the petitioner is said to be a tenant. Since he refused to pay the rent regularly as well as keeping in mind his needs, he filed an application before the Rent Controller, Bilaspur, seeking his eviction. The Rent Controller after taking various stand as well as evidence on record rejected the application for eviction vide order dated 8-11-2016 primarily on the ground that the sale of the property by Smt. Beena Mishra in favour of the private respondent was a subject matter pending before the Civil Court of competent jurisdiction so the status of landlord is not established.
4. Against the order of the Rent Controller, an appeal was filed, which has now been allowed.
5. From a reading of the impugned order as well as the order passed by the Rent Controller, it is the case of the petitioner that it was his wife Smt. Seema Chouhan who was inducted as a tenant by Smt. Beena Mishra and at one point of time there was an agreement between Smt. Beena Mishra and the wife of the petitioner for sale of the property for which an advance of Rs.50,000/- was paid and the consideration amount fixed was stated to be Rs.4,50,000/-.
6. This Court finds it strange that the Rent Controller on the basis of so called challenge thrown by the petitioner before a Civil Court with regard to sale of the property by Smt. Beena Mishra

to the private respondent held that the landlord-tenant relationship was not established. The finding of the Tribunal is that the petitioner is the head of the family and he is living with his wife Smt. Seema Chouhan and even if his stand is taken into consideration, he along with his wife are in occupation of the rented property seems to be correct. Even for the sake of argument if Smt. Seema Chouhan was inducted by Smt. Beena Mishra and rent was being paid to her and if Smt. Beena Mishra decided to sell the property to the private respondent namely; Nandlal Gupta and none of the family members had any objection to the said sale, then this Court wonders as to how the present petitioner could assail or challenge that sale deed on the ground that it has not been executed by other family members.

7. Since the property in question was transferred by sale deed duly registered in the name of the private respondent, all rights and interest in the said property would vest in the said purchaser. The present petitioner by virtue of the said sale becomes the tenant of Nandlal Gupta and if an eviction has been sought by Nandlal Gupta and even allegation of default in payment has been alleged, which stands established, then the order of the Tribunal ordering eviction cannot be said to be erroneous.
8. The Court is informed that a sum of Rs.72,000/- was paid to the private respondent, the purchaser and the present owner, at the direction issued by this Court on 10-5-2017, which was arrears, but again the petitioner is in default and no payment of rent is being made supposedly on the ground that the litigation is

pending before this Court and interim protection was granted.

9. On the final hearing no illegality emerges from the decision of the Tribunal. In fact, the Rent Controller's decision was in error, who on the pendency of title suit held that there was no relationship of landlord-tenant when admittedly Smt. Beena Mishra had sold her right and interest in the property to the private respondent by a registered sale deed. Till the registered sale deed is declared to be null and void, vesting of right in favour of purchaser cannot be questioned.
10. The writ petition, therefore, has no merit and it stands dismissed. Petitioner is directed to handover peaceful possession of the rented property to the private respondent within a period of 30 days from today. Private respondent would be free to recover arrears of rent in accordance with law.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri