

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****RESERVED ON 7-2-2018****DELIVERED ON 13-2-2018****REVP No. 17 of 2018**

Vikas Gurudwan S/o Shri R. C. Gurudwan, Aged About 39 Years R/o
D. P. Vipra College Road, Near Chantidih Petrol Pump, Ashok Nagar,
Seepat Road, Sarkanda, Bilaspur, Civil And Revenue District- Bilaspur,
CG

---- Petitioner**Versus**

1. Chhattisgarh Rent Control Tribunal Through Registrar, C. G. Rent Control Tribunal, Old R. D. A. Building, First Floor, Shastri Chowk, Raipur, CG
2. The Rent Controlling Authority, District Bilaspur, Near Collectorate Bilaspur (CG)
3. Vinay Kumar Shrivastava, S/o Omprakash Shrivastava, Aged About 43 Years R/o C- 32, Revenue Colony, Sarkanda, Bilaspur, CG
4. Swati Shrivastava, W/o Vinay Kumar Shrivastava Aged About 41 Years R/o C-32 Revenue Colony, Sarkanda, Bilaspur, (CG)

---- Respondents

For Petitioner	:	Mr. Neeraj Choubey, Advocate.
For Respondents No. 3 and 4	:	Mr. Chandresh Shrivastava, Advocate

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

1. In this review petition challenge is levied to the order of this court dated 18-1-2018 delivered in WPC No. 3447/2017 whereby and whereunder the writ petition is dismissed vacating the interim direction on the ground that main matter itself has been decided by the Rent Controller, Bilaspur therefore nothing survives for further consideration in the writ petition.

2. This is admitted by the petitioner that earlier Laxmi Narayan Dhruv was the owner of the disputed house; he was the tenant of Laxmi Narayan Dhruv; an agreement dated 31-8-2009 was executed between them; rent was Rs. 3,850/- per month; he

had given the reply of the notice dated 19-12-2016 to the respondents No. 3 and 4.

3. In brief the case of the respondents No. 3 and 4 is that they have purchased the disputed shop from Laxmi Narayan Dhruv by registered sale deed dated 28-4-2016. Thereafter the petitioner had become his tenant. The petitioner had not paid him rent from 1-4-2016. Six months' prior notice dated 19-12-2016 under Clause 11(h) of schedule II under Section 12(2), CG Rent Control Act, 2011 (hereinafter called as 'Act 2011') had been given to the petitioner.

4. In brief, the petitioner's case is that his tenancy with Laxmi Narayan Dhruv was only for the period September 2009 to 31 July 2010. An agreement for sale of disputed shop was made between him and Laxmi Narayan Dhruv. His suit for specific performance of the contract against Laxmi Narayan Dhruv is pending before the Court of Additional Distt. Judge Bilaspur. Neither the respondents No. 3 and 4 are landlord nor he is tenant. Thus, the Act 2011 is not applicable in the case in hand.

5. During the pendency of the application of the respondents No. 3 and 4 for the eviction of the petitioner, petitioner filed an application under Order 7 Rule XI of the CPC read with Section 9 of Act 2011 which was rejected by rent Controller Bilaspur by order dated 18-8-2017. This order was challenged by the petitioner before the Chhattisgarh Rent Control Tribunal, Raipur (hereinafter called as 'Tribunal, Raipur') by filing an appeal which was dismissed vide Annexure P-1. Being aggrieved, the petitioner preferred the writ petition.

6. Mr. Neeraj Choubey, counsel for the petitioner strenuously argued that the impugned order of the writ petition was passed without giving opportunity of hearing to him, the writ petition still survives because he had challenged entire eviction proceedings, there is no landlord and tenant relationship between respondents No. 3, 4 and him. He further argued that order Annexure P-1 was passed by only one member of the Tribunal Raipur which is not permissible by law. Thus, the impugned order may be reviewed.

7. Shri Chandresh Shrivastava, counsel for respondents No. 3 and 4 argued that the impugned order is just and proper because at the time of the pronouncement of the impugned order, no proceeding was pending before the Rent Controller, Bilaspur

8. This Court has passed the impugned order dated 18-1-2018 as aforesaid. Prior to pronouncement of the impugned order the Rent Controller had already passed the order of eviction against the petitioner on 7-12-2016 vide Annexure AR – 3/3. Thus, it is apparent from the record that when this Court passed the impugned order dated 18-1-2018, no proceeding was pending before the Rent Controller regarding the disputed shop initiated by respondents No. 3 and 4 and the pending matter was already disposed of by the Rent Controller Bilaspur on merit of the case. In other words, the writ petition became infructuous on 18-1-2018. Moreover, this is not the petitioner's case that the discovery of new fact and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the impugned order was passed. Moreover, from the face of the record it does

not appear that some mistake or error has been committed. At this stage, the learned counsel for the petitioner submits that the petitioner has preferred the appeal before the Tribunal, Raipur. We record this submission.

9. Looking to the facts and circumstances of the case, materials placed on record, we are of the considered opinion that the review petition being devoid of merit deserves to be and is hereby dismissed. However, the petitioner will be at liberty to raise maintainability of the eviction application and other permissible issues in the appeal pending before the Tribunal, Raipur.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge