

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 267 of 2018**

- Shrikant Tiwari, S/o Late Ramanuj Tiwari, Aged about 66 years, Original resident of Masanganj, Bilaspur, Tahsil and District Bilaspur (C.G.), Retired District Auditor, at present resident of Kewantapara, Raigarh (C.G.)

---- **Petitioner****Versus**

- Umashanker Awasthi, S/o Late Ganesh Prasad Awasthi, R/o Sarjubagicha Masanganj, Tahsil and District Bilaspur (C.G.), Through Navin Vidya Bhawan, Gole Bazaar Bilaspur, Tahsil and District Bilaspur (C.G.)

---- **Respondent**

For Petitioner	:	Shri Alok Bakshi, Advocate.
For Respondent	:	None.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Prashant Kumar Mishra****Order on Board****Per Ajay Kumar Tripathi, Chief Justice****30.07.2018**

1. Writ petition has been preferred against an order dated 13.12.2017 passed by the Chhattisgarh Rent Control Appellate Tribunal; hereinafter referred to as 'Tribunal'. The Petitioner initially moved the forum of the Rent Controller for eviction of private Respondent from a Municipal shop of which claims to be the allottee by virtue of being a son of his father, who was the original allottee.
2. Since the Rent Controller did not find any merit in such a claim for the reason that the clear right title or interest of this Petitioner was not established. There has been a fight within the family and the so called tenant was never inducted by the present Petitioner, but by his brother or his wife, who so ever it may be.
3. Aggrieved by the order of the Rent Controller dated 07.03.2017 an appeal was preferred which was registered as Appeal No.28A/2017.
4. After due consideration of the detailed facts, the Tribunal took note of Section

2(5) of the Chhattisgarh Rent Control Act, 2011, as to who is a landlord. Keeping the above definition in mind and the fact which emerged before the Appellate authority, it came to a considered opinion that there are still litigations going on between various parties as to who is the owner of the shop in question and, therefore, in absence of a clear title having been established, even the Appellate Tribunal dismissed the appeal.

5. Counsel for the Petitioner submits that the Tribunal has committed an error in holding that there is a suit pending between the parties a fact not true. That the decision of the Municipal authorities to modify or change the name in the Municipal records in favour of the present Petitioner is the subject matter pending before a writ Court specially when earlier the said shop was recorded in the name of the younger brother of the present Petitioner is not denied or disputed.
6. The facts being what they are, the final word as to who is the original lessee of from the Municipal Corporation is not settled, therefore, the claim of the present Petitioner to be the rightful landlord, who has a right of eviction is misplaced kind of prayer to make. The Tribunal, therefore, has not committed an error by dismissing the appeal as any order in favour of the Petitioner would have a fallout upon the other pending litigations as to who is the real allottee.
7. The writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Prashant Kumar Mishra)
Judge