

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 920 of 2018**

- Hemchand Airy Late Somlal Airy Aged About 66 Years R/o Raj Binding Works Balkhandidas Bada, Ghogha Baba Mandir Compound, Near City Kotwali Bilaspur Police Station City Kotwali, Tahsil Civil And Revenue District Bilaspur Chhattisgarh. Mo. No. 9406371552

---- Petitioner**Versus**

- Shriram Mandir (Balkhandidas Baba) Trust, Through Its President Of Registered Trust - Moolchand Khandelwal , Aged About 78 Years , S/o Shri Chirounjilal , R/o Sai Manglam, Vyapar Vihar Road Bilaspur Tahsil And District Bilaspur Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Ratnesh Kumar Agrawal, Advocate
For Respondent	:	Shri Rajeev Shrivastava, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Pritinker Diwaker

Order on Board**Per Ajay Kumar Tripathi, Chief Justice****10.07.2018**

1. The writ application in question assails the order dated 07.03.2018 passed by the Chhattisgarh Rent Control Tribunal, Raipur (for short, 'the Tribunal') in Misc. Appeal No.60 of 2017.
2. The Respondent preferred an application under Section 8 read with Section 12(2) of the Chhattisgarh Rent Control Act, 2011 (for short 'the Act, 2011') for recovery of arrears and possession in respect of Shop No.6(7) constructed in the compound of Shriram Mandir (Balkhandidas Baba) Trust, Bilaspur. The present Petitioner is supposed to be running a binding works from the said shop, but he has failed to pay rent to the tune of Rs.22,275/-.

3. As a preliminary objection, a plea was taken before the Rent Control Authority that such an application is not maintainable because property of Public Trusts have been exempted from the ambit and jurisdiction of the Rent Controller. The reason thereof is said to be a Notification dated 07.09.1989 issued under Section 3(2) of the Chhattisgarh Rent Control Act, 1961. The Rent Controller, however, repelled such an argument because a new legislation has been enacted by the State which is known as the Chhattisgarh Rent Control Act, 2011 which has come into force *w.e.f.* 06.11.2012.
4. The Rent Controller, taking note of Section 3 of the Act, 2011 came to a conclusion that since no notification has been produced by the present petitioner showing exemption of such Public Trust properties from the jurisdiction of the Rent Controller, he entertained the application and passed the necessary order.
5. Submission of the counsel representing the Petitioner while assailing the impugned order dated 07.03.2018 of the Tribunal is that there is no notification repealing the earlier notification which had granted exemption and till such a notification is issued, the old notification will continue to occupy the field. This interpretation is sought to be given by the counsel for the Petitioner on the basis of the provision contained in Section 14 of the Act, 2011. Section 14 is basically provision for repeal and saving and it is the stand of the counsel for the Petitioner that the words used in the said Section 14 protects previous notifications and therefore exemption should be read in continuity even if it was under the old legislation.
6. We are in disagreement with such a stand being urged at the Bar on behalf of the Petitioner for the reason that the repeal and saving provision provided for under the Act, 2011 protects all action and decision which may have

been taken under the old enactment. Since the entirety of the Act 1961 stands repealed, therefore, under the new legislation an appropriate notification is necessitated and mandated before any claim for exemption for properties of Public Trust can be claimed by any person as a defence. The authority below is correct in saying that there is no notification which has been issued as yet by the Government in exercise of power under Section 3(2) of the Act, 2011 and therefore as of now, there is no exemption to such properties and the Rent Controller would continue to exercise his authority till such a notification is issued by the State Government granting exemption.

7. There is no infirmity with the decision rendered by the Rent Controller in his order dated 18.10.2017 or order dated 07.03.2018 passed by the Tribunal. Writ application therefore has no merit and is dismissed.
8. In view of the dismissal of the writ application, it goes without saying that any interim order of stay which was operating during this period automatically stands vacated. The parties must present themselves before the said authority for assistance and adjudication on merits of the case. The Court directs the two contesting parties to appear before the Rent Controller by 23.07.2018 with a copy of this order.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Pritinker Diwaker)
Judge