

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 287 of 2018

- Mallika Arjun S/o Shambha Shivrao Aged About 31 Years R/o Maheshwari Jewellery Works, Sadar Bazar, Durg, Tahsil And District- Durg, Chhattisgarh.Plaintiff

---- Petitioner

Versus

1. Devendra Kumar Jain S/o Late Kasturchand Jian Aged About 60 Years
2. Lalit Kumar Jain S/o Late Kastur Chand Jain Aged About 58 Years
Both R/o Jain Gali, Sadar Bazar, Durg, Tahsil And District- Durg, Chhattisgarh
3. The Rent Controller, Durg, District- Durg, Chhattisgarh

---- Respondents

For Petitioner	: Shri BP Singh, Advocate
For Respondent/State	: Shri RK Gupta, Deputy Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Sharad Kumar Gupta, Judge

09.04.2018

- 1) Heard the learned counsel for the parties.
- 2) In this Writ Petition, challenge is levied to the order dated 23.02.2018 of the Rent Control Tribunal, Raipur (in brevity 'Tribunal Raipur') in appeal 72A/2017 vide Annexure P/1, whereby and whereunder the Tribunal Raipur dismissed the appeal filed by the petitioner and affirmed the order dated 13.09.2017, passed by the Rent Controller, Durg

(in brevity, 'Rent Controller, Durg') in case No.14-A/90, 2014-15 vide Annexure P/4.

3) Respondents 1 and 2 had filed an application under SI No.11(h) of the Second Schedule of Section 12(2) of the Chhattisgarh Rent Control Act, 2011 (hereafter, the Act, 2011) for obtaining vacant possession of the disputed shop from the petitioner.

4) This is admitted by the petitioner that he is the tenant of respondents 1 and 2 @ monthly rent of Rs.450/-, the respondent had given him a notice dated 07.02.2014 which was received by him on 11.02.2014, he had replied on 17.02.2014.

5) Shri BP Singh, counsel for the petitioner argued that no ground is available to the petitioner under the Act, 2011; no lease deed had been executed between the petitioner and the respondents though it was essential looking to the provisions of the Act, 2011, thus respondents are not entitled to get the vacant possession of the disputed shop. Hence, the impugned order Annexure P/1 may be set aside.

6) As per the provisions of SI No.11(h) of the Second Schedule of Section 12(2) of the Act, 2011, a landlord is entitled to get the vacant possession of the disputed accommodation after giving six months' prior notice to the tenant without assigning any reason which has been mentioned in the Second Schedule of Section 12(2) of the Act of 2011.

7) In the case in hand, the petitioner had admitted relationship of landlord and tenant, thus, non-execution of the lease deed is irrelevant in the matter in hand. Respondents 1 and 2 had filed aforesaid eviction

application after the expiry of 6 months' period from the date of receipt of notice i.e. 11.02.2014.

8) Looking to the aforesaid facts and circumstances of the case, material placed on record, this Court finds that the Tribunal Raipur and the Rent Controller, Durg had not committed any illegality or material irregularity. Thus, this petition deserves to be and is hereby dismissed *in limine*.

9) The petitioner shall hand over the vacant possession of the disputed shop to the respondents within three weeks from today.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge