

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 02.05.2018

Delivered on 04.05.2018

Writ Petition (C) No. 1238 of 2018

- Murti Bhagwan Shree Venkatesh Ji Mandir Trust, Sadar Bazaar Bilaspur Through Jugal Kishore Gadodia, Office Sadar Bazaar Bilaspur, Tahsil And District : Bilaspur, Chhattisgarh.

---- Petitioner

Versus

- Prakash Chandr S/o Hotumal, Aged About 64 Years R/o Prakash Cloth Stores, Venkatesh Mandir, Shop No. 01, Sadar Bazaar Bilaspur, Tahsil And District : Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Rajeev Shrivastava, Advocate
For Respondent	:	None.

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 writ petition, the challenge levied is to the order dated 26.03.2018 passed by the Chhattisgarh Rent Control Tribunal, Raipur (for short 'the Tribunal') in Appeal No.56A/2017 vide Annexure P-1 whereby and whereunder the Tribunal dismissed the appeal preferred by the petitioner/ landlord challenging the order dated 26.07.2017 passed by the Rent Controller, Bilaspur in Case No. 22/A-90(7)/2015-2016 vide Annexure P-2.
2. It is admitted by the respondent that the disputed shop is the property of the Murti Bhagwan Shree Venkatesh Ji Mandir Trust, Sadar Bazaar

Bilaspur. He is running a business in the disputed shop as tenant.

3. In brief, the petitioner's case is that the rent of the disputed shop is Rs. 1750/- per month. The respondent has caused substantial damage to the disputed shop. He had given notice to the respondent.

4. In brief, the respondent's case is that Jugal Kishore Gadodia is not authorised to initiate legal proceeding on behalf of the aforesaid trust. The rent is Rs. 100/- per month. He has not caused any substantial damage to the disputed shop.

5. The Rent Controller, Bilaspur rejected the petitioner's application filed under the Chhattisgarh Rent Control Act, 2011 (for short 'the Act, 2011') which was for eviction of the respondent and compensation for damages of the shop. Being aggrieved, the petitioner preferred the appeal before the Tribunal, Raipur. The Tribunal passed the aforesaid order Annexure P-1. Hence, this writ petition.

6. Shri Rajeev Shrivastava, counsel for the petitioner argued that the Tribunal, Raipur did not appreciate the evidence in its proper perspective. The findings of the Tribunal are perverse and contrary to the material available on record. Thus, the impugned order Annexure P-1 is bad in law and deserves to be set aside.

7. It would be pertinent to extract the provisions of Sl. No.11 (b) of Schedule 2 of Section 12(2) of the Act, 2011, which is as under:-

“11. Right to seek from the Rent Controller eviction of the tenant on the following grounds :-

(a)

(b) If the tenant causes, or allows to be caused, substantial damage to the accommodation, for any reason whatsoever.

(c)

8. In the case in hand, the petitioner has filed eviction application on the ground enumerated in Sl. No.11 (b) of Schedule 2 of Section 12(2) of the Act, 2011, except this, the petitioner has not raised any other ground enumerated in Sl. No.11 of Schedule 2 of Section 12(2) of the Act, 2011.

9. This is admitted by the petitioner himself in his cross examination that no damage has been caused to the shop, the disputed shop is in good condition. Entire building is strong. Due to tiling works, the strength of the shop has increased. In these circumstances, we find that the Tribunal, Raipur has not committed any irregularity or gross illegality while giving the finding that the petitioner has failed to prove the ground of Sl.No. 11(b) of Schedule 2 of Section 12(2) of the Act, 2011 that the respondent has caused substantive damages to the disputed shop.

10. In **Khimji Vidhu v. Premier High School {AIR 2000 SC 3495}** the Hon'ble Supreme Court has laid down that findings of fact could not have been interfered by the High Court in exercise of its jurisdiction under Article 227 of the Constitution. Jurisdiction under Article 227 of the Constitution must be sparingly exercised and may be exercised to correct errors of jurisdiction and the like but not to upset pure findings of fact, which falls in the domain of an Appellate Court only.

11. In **D.N. Banerji v. P.R. Mukherjee {AIR 1953 SC 58}** the Hon'ble Supreme Court observed that unless there is grave miscarriage of justice or flagrant violation of law calling for interference, it is not for the High Court under Articles 226 and 227 of the Constitution to interfere.

12. The findings given by the Tribunal, Raipur vide order Annexure P-1 are based on facts. Looking to the facts, circumstances, materials available on

the record and the judicial precedents laid down by the Hon'ble Supreme Court in **Khimji Vidhu (Supra)** and **D.N. Banerji (Supra)**, this Court finds that no interference is called for in the impugned order by this Court in exercise of its supervisory jurisdiction vested under Article 227 of the Constitution of India. Thus, the writ petition is devoid of merit and deserves to be dismissed.

13. In the result, this writ petition is dismissed. The impugned order dated 26.03.2018, Annexure P-1, of the Chhattisgarh Rent Control Tribunal, Raipur, is confirmed.

14. No costs.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge