

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2055 of 2018**

1. Ramphal Verma, S/o Late Shri Dhanwar Verma, aged about 55 years, R/o Village Umaria, Police Station and Tahsil Bilha, District Bilaspur (C.G.)
2. Ramsunder Verma, S/o Late Ghasiram Verma, aged about 38 years.
3. Anoop Kumar Verma, S/o Late Shri Ghasiram Verma, aged about 36 years.
4. Sadhram, S/o Late Shri Ghasiram Verma, aged about 34 years,
5. Arun Kumar, S/o Late Shri Ghasiram Verma, aged about 32 years.

Petitioner No. 2 to 5 R/o Village Rahangi, Police Station Hirri, Tahsil Bilha, District Bilaspur (C.G.)

---- Petitioners

Versus

- Praphulla Kumar Behura, aged about 55 years, S/o Shri Prahlad Behura, Presently residing in Nayapara Ward No.4, Nagar Panchayat Boedari, Tahsil Bilha, District Bilaspur (C.G.)

---- Respondent

For Petitioners	:	Shri Ram Kumar Tiwari, Advocate.
For Respondent	:	Shri Manoj Kumar Sinha, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****Per Ajay Kumar Tripathi, Chief Justice****30.11.2018**

1. Heard counsel for the Petitioners and counsel for the Respondent.
2. Writ Petitioners filed an application before the Rent Controller, Bilaspur, Chhattisgarh under Section 12 (2) and Section 23 (a) of Rent Control Act, 2011 (for short, 'Act of 2011') for eviction as well as payment of arrears of rent of a house of which the private Respondent is said to be tenant.
3. As per the application, the private Respondent was inducted as a tenant by one Bodhiram. Rent was being paid till about December 2012 but thereafter, payment of rent was stopped. It may also be noticed that Bodhiram himself died

on 17.05.2012 and the present Petitioners claim themselves to be the legal heirs. They are nephews of late Bodhiram and they are said to be Class-II heirs.

4. It may also be noticed that the application for succession was filed before the Court of 1st Civil Judge, Class-I at Bilaspur which was decreed in their favour vide order and judgment dated 14.03.2014. This was the circumstance under which the Petitioners moved the Rent Controller, who found substance in the application on the basis of evidence and circumstances which has been dealt with in quite a detail by the Rent Controller. An order of eviction and payment of arrears was issued vide order dated 16.05.2017 against which an appeal was preferred by the tenant before the Rent Tribunal, Raipur.
5. The appeal was registered as Appeal No. 36-A/2017. The appeal was allowed by the Tribunal primarily on the ground that the relationship of landlord and tenant is not establish because there was no evidence of payment of rent by the tenant to any of these claimants even though they may be the legal heirs.
6. The submission of the counsel representing the Petitioners is that the Tribunal has committed serious error of law in the sense that despite taking note of the definition of the word 'landlord', it has gone by a logic whether any kind of rent was ever paid or accepted by them as legal heirs, of late Bodhiram.
7. The Chhattisgarh Rent Control Act, 2011 defines a 'landlord' in Section 2(5) as under:

“2(5). “Landlord” means a person who for the time being is receiving or is entitled to receive, the rent of any accommodation, whether on his own account or on account of or on behalf of or for the benefit of any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or to be entitled to receive the rent, if the accommodations were let to a tenant.”

8. A reading of the said definition would show that it is couched in the widest terms and anybody falling within any of those category or status, would be treated to be a landlord and therefore, the factum that no rent was paid by the tenant to the claimants seems to be a misplaced kind of logic which has been applied by the Tribunal.
9. It is further noticed that the tenant was inducted by late Bodhiram which is not denied. Since he had been taken ill and then passed away on 17.05.2012, the payment of rent stopped. It is for the said reason legal notice in terms of the provisions of the Act of 2011 came to be issued on inaction by tenant an application for eviction was filed.
10. Before the Rent Controller and the Appellate Authority, a defence was put up by the tenant that he had purchased the property and for that he produced a document which was said to be a sale deed typed out on a Rs. 50/- stamp paper, but never registered. It was also argued before us that since the land in question was a Nazul land, therefore, a via media was adopted for alienation of the property so the sale deed on a Rs. 50/- stamp paper.
11. The tenant cannot claim a better right than what the landlord had in the very first place in relation to title. In addition to that, no immovable property can be alienated without registration thereof. The Rent Controller took note of this evidence and has made comments that it is a sham kind of document created by the tenant to overcome the action of eviction against him.
12. In totality, therefore, the factum of the tenant having been inducted in that capacity by Bodhiram is not denied. The defence of purchase of the property on a non registered document cannot be accepted as a valid defence. It is only a desperate measure of creating a document to show title. The reason for non payment of rent has to be repelled in the alone circumstance.

13. Since the definition of the word 'landlord' under the Act of 2011 is in the widest form and since the Petitioners have been declared to be the legal heirs by the Civil Court of competent jurisdiction, therefore, they will step into the shoes of Late Bodhiram and they have to be treated to be the landlord for the purposes of maintaining the proceeding against the tenant.
14. In view of the above, since there is serious error of law committed by the Rent Control Tribunal in its order dated 15.12.2017, the writ application is allowed. The said order is quashed. The order of Rent Controller is restored. The Petitioners may move the competent forum for enforcement or execution of the order of the Rent Controller.
15. The writ application is allowed in terms of the above.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge