

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1549 of 2019

- Ashok Kumar Sindhi S/o Jiyalal Sindhi, Aged About 62 Years R/o Shop Number 21, Gaushala Super Market, Gaushalapara, Cinema Line, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

1. Gaushala Pinjrapol Through - President - Khoobchand Parakh S/o Late Dulichand Parakh, R/o Gaushalapara, Rajnandgaon District Rajnandgaon Chhattisgarh.
2. Khoobchand Parakh S/o Late Dulichand Parakh, R/o Gaushalapara, Rajnandgaon District Rajnandgaon Chhattisgarh.
3. Rent Controlling Authority - Cum - Sub - Divisional Officer (Revenue) Rajnandgaon District Rajnandgaon Chhattisgarh.

---- Respondents

WPC No. 1547 of 2019

1. Manohar Lalwani S/o Late Jeevat Ram Lalwani Aged About 64 Years R/o Shop Number 14, and 22 Gaushala Super Market Gaushalapara, Cinema Line, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh.
2. Naresh Lalwani S/o Late Jeevat Ram Lalwani Aged About 51 Years R/o Shop Number 14 And 22 Gaushala Super Market, Gaushalapara, Cinema Line Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

1. Gaushala Pinjrapol Through President Khobchand Parakh S/o Late Dulichand Parakh, R/o Gaushalapara, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
2. Khoobchand Parakh S/o Late Dulichand Parakh R/o Gaushalapara, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
3. Rent Controlling Authority Cum -Sub Divisional Officer (Revenue) Divisional Officer (Revenue), Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Respondents

WPC No. 1550 of 2019

1. Jai Paper Industries Through Its Proprietor Namely Manohar Lalwani S/o Late Jeevat Ram Lalwani, Aged About 64 Years, Shop Number 13, 18, And 24, Gaushala Super Market, Gaushalapara, Cinema Line, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh.
2. Naresh Lalwani S/o Late Jeevat Ram Lalwani Aged About 51 Years Proprietor Of Jai Paper Industries, Shop Number 13, 18, And 24, Gaushala Super Market, Gaushalapara, Cinema Line, Rajnandgaon, Tahsil And District Rajnandgaon Chhattisgarh.,

---- Petitioners

Versus

1. Gaushala Pinjrapol Through - President - Khoobchand Parakh S/o Late Dulichand Parakh, R/o Gaushalapara, Rajnandgaon District Rajnandgaon Chhattisgarh.

2. Khoobchand Parakh S/o Late Dulichand Parakh, R/o Gaushalapara, Rajnandgaon District Rajnandgaon Chhattisgarh.
3. Rent Controlling Authority - Cum - Sub - Divisional Officer (Revenue), Rajnandgaon District Rajnandgaon Chhattisgarh.

---- Respondents

WPC No. 1628 of 2019

- Bharat General Stores Through Kishor Kumar Sindhi S/o Late Moolchand Lalwani, Aged About 58 Years, R/o Shop Number 15, Gaushala Super Market, Gaushala Cinema Line, Rajnandgaon Tahsil And District Rajnangaon Chhattisgarh

---- Petitioner

Versus

1. Gaushala Pinjrapol Through President Khoobchand Parakh S/o Late Dulichand Prarakh, R/o Gaushalapara, Rajnandgaon, District Rajnandgaon. Chhattisgarh.
2. Khoobchand Parakh S/o Late Dulichand Parakh R/o Gaushalapara, Rajnandgaon, District Rajnandgaon Chhattisgarh.
3. Rent Controlling Augthority Cum Sub Divisional Officer (Revenue), Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Vaibhav A. Goverdhan, Advocate
For Respondents-State	:	Shri S.C. Verma, Additional Advocate General
For Respondent-landlord	:	Shri Shalvik Tiwari, Advocate appears on behalf of Shri Parag Kotecha, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Manindra Mohan Shrivastava, Judge

Order on Board

Per, Manindra Mohan Shrivastava, Judge

17.05.2019

1. This order shall govern disposal of aforesaid writ petitions, by which the Rent Control Tribunal in the State of Chhattisgarh has dismissed the appeals filed by the respective writ petitioners.
2. The respective appellants in the aforesaid writ petitions were inducted as tenants by Respondent-landlord, Gaushala Pinjrapol Society. In course of time, the Society, through its president, issued statutory notice to the

respective appellants/tenants as contemplated under the provisions of the Chhattisgarh Rent Control Act, 2011 (hereinafter referred to as 'the Act, 2011') seeking the tenants to vacate the premises within stipulated period. As the tenants did not vacate the premises, a dispute arose and the matter was taken before the Rent Controlling Authority, constituted under the Act, 2011. Vide order dated 28.11.2018, the Rent Controlling Authority passed an order of eviction against the respective appellants/tenants. All the aggrieved tenants approached Rent Control Tribunal assailing legality and validity of the order passed by the Rent Controlling Authority.

3. One of the common submission made by the appellants before the Rent Control Tribunal was that, though, they had raised specific objection with regard to the competence and authority of the Rent Controlling Authority to act as such, under the provisions of law, the issue was not considered. The Rent Control Tribunal also did not appreciate the submission, though, it upheld the order of the Rent Controlling Authority.
4. Aggrieved by the aforesaid two orders, the respective appellants have come before this Court assailing correctness of those orders.
5. The main submission of learned counsel for the respective appellants in this appeals is that the Rent Controlling Authority as well as the Rent Control Tribunal did not examine whether the authority, who passed the order of eviction was authorized in terms of the provisions contained under Section 7 of the Act, 2011. Learned counsel for the respective appellants would argued that unless, there is authorization by way of notification, as provided under Section 7 of the Act, 2011, the Rent Controlling Authority could not have exercise the statutory power to pass an order of eviction.

6. To appreciate the submission of learned counsel for the respective appellants, the relevant provision as contained in Section 7 of the Act, 2011 is extracted hereinbelow :

“7. Establishment of Rent Controller. - (1) For every district, the State Government shall appoint one or more officers not below the rank of a Deputy Collector, as Rent Controller with territorial jurisdiction as to be specified by the District Collector.

(2) Rent Controller shall be subordinate to the Rent Control Tribunal.”

7. Fair and logical reading of aforesaid provision reveal that for every District, the State Government shall appoint one or more officers not below the rank of a Deputy Collector, as Rent Controller with territorial jurisdiction as may be specified by the District Collector.
8. In view of the aforesaid clear provision, in order to exercise power as Rent Controller, the authority is required to be duly authorized by way of notification as contemplated under sub Section (1) of Section 7 of the Act, 2011, to be issued by the State Government.
9. Having considered that the Rent Control Tribunal has not specifically adverted to the legal aspect, we required the learned Additional Advocate General to place the notification, if any, issued by the the State Government in terms of Section 7 of the Act, 2011, empowering the concerned authority to pass the order of eviction, to act as Rent Controller. Today, learned Additional Advocate General has placed before us, a copy of notification dated 05.04.2019. That notification contains recital that vide order dated 07.07.2017 Mr. Atul Vishwakarma was appointed as Rent Controlling Authority for the territorial area of Rajnandgaon District. The notification,

however, relates to appointment of Mr. Mukesh Rawte, Deputy Collector in place of Mr. Atul Vishwakarma. Though, the notification authorizing Mr. Atul Vishwakarma has not been placed, the contents of notification dated 05.04.2019 clearly speak out that Mr. Atul Vishwakarma, the then Deputy Collector, was notified by the State Government to act as Rent Controller in the territorial limits of the District of Rajnandgaon.

10. In that view of the matter, we find that the Rent Controlling Authority who passed the order of eviction was duly authorized under the law to act as such. Therefore, we do not find any ground to interfere with the order of eviction.
11. At this stage, the learned counsel for the respective appellants would submit that after the order of eviction was passed, the tenanted premises have been sealed and their goods and other belongings are kept therein and they may be allowed to remove them. Some breathing time may be given to the respective appellants to make alternative arrangement. He submits that the appellants would be giving undertaking that immediately after expiry of the stipulated period, as may be directed by the Court, they would be vacating the premises. To that extent, learned counsel for the Respondent-landlord does not have any objection and he agrees.
12. In view of the above, though we are not inclined to interfere with the order passed by the Rent Control Tribunal, we direct that the appellants may be allow to remove their belongings from the sealed premises. We further direct that the appellants shall be allowed to occupy the tenanted premises for a period of three months from today. In view of the specific undertaking given by the respective appellants, we also direct that after expiry of three months,

the appellants shall vacate the premises by handing over its peaceful possession to the landlord.

13. Subject to above indulgence, all the Writ Appeals are dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Manindra Mohan Shrivastava)
Judge