

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2558 of 2017**

Ku. Sheela Pandya D/o Late Shri Manilal Bhai Pandaya, Aged About 59 Years
R/o 9/340, R M I Works Compound, Fafadih, Raipur, Tahsil And District Raipur,
Chhattisgarh, Chhattisgarh

----Petitioner**VERSUS**

1. State Of Chhattisgarh Through The Secretary, Law And Legislative Affairs, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh, Chhattisgarh
2. Chhattisgarh Rent Controller Tribunal, Through Its Chairman, First Floor, Old R.D.A. Building Shastri Chowk, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. Kishore Bhai Pithaliya S/o Late Narayan Bhai Pithaliya, R/o Pithaliya Complex, Fafadih, Raipur, Tahsil And District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
(Applicant)

-----Respondents

For Petitioner	:	Ms. Hamida Siddiqui, Advocate
For Respondent No. 3	:	Shri Deverishi Thakur, Advocate.
For Respondent No. 1 & 2	:	Shri Vikram Sharma, Panel Lawyer

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per P.R. Ramachandra Menon, Chief Justice.****11/07/2019**

1. The correctnesses and sustainability of the verdicts passed by the Rent Controller Authority and the Appellate Authority are put to challenge by the petitioner/tenant being aggrieved of the order of eviction.
2. Heard learned counsel for the petitioner as well as the learned counsel appearing on behalf of the respondent No.3/applicant/landlord, besides the learned counsel appearing for the State.

3. When the matter came up for consideration before this Court on 04-07-2019, the learned counsel for the petitioner vehemently argued that the notice issued by the landlord was defective, insofar as, the landlord was not entitled to have the benefit of being a senior citizen in terms of Section 12 (2) of the Chhattisgarh Rent Control Act, 2011, and he was never above the age of 65 years on the relevant date. In the normal circumstances, the minimum notice period shall be 'six months' and the concession is only to the specific category of persons which includes 'senior citizen' as well, for whom it is only one month's notice. Reference was also made to the cause title of notice (Annexure P-3) where age of the landlord was shown as only "about 65 years", which was not to be considered as "above 65 years".
4. Version of the respondent No.3/landlord as put-forth by the learned counsel is that the landlord, in fact, had crossed the age of 72 years as recorded by the Rent Controller Authority. In view of the dispute with regard to the age factor, we passed an order on 4-7-2019 in the following terms:

"Learned counsel for the petitioner submits that the Respondent-landlord is not entitled for the benefit of Section 12(2) of the Chhattisgarh Rent Control Act, 2011 to have the notice period for eviction confined to one month as applicable in the case of senior citizen having more than 65 years of age instead of six months as it is applicable to the normal circumstances.

Referring to the notice issued on 29.10.2013, the learned counsel submits that the age has been shown by the landlord only as about 60 years (लगभग 60 वर्ष) which cannot be construed as above 65 years. It is

also stated that no evidence was adduced to support this fact and no issue was framed by the Rent Control Authority despite the specific objection raised on the part of the Tenant/petitioner herein.

The learned counsel for the Landlord submits that he adduced the evidence before the Trial Court to the effect that he was of 72 years of age as noted by the Rent Controller Authority. The learned counsel seeks for time to produce authenticated material showing the age for the purpose of satisfaction of this Court to mould the relief, if any, in view of the nature of contentions raised from the part of the petitioner...”

5. Pursuant to the above order, the respondent No.3/landlord has filed a memo dated 9-7-2019, producing copies of the relevant testimonials, which includes a notarized copy of the Passport, a notarized copy of the Aadhar Card, a notarized copy of the Election Identity Card and a notarized copy of the Certificate from the Educational institution where the respondent No. 3/landlord has pursued his studies. All these documents clearly reveal that the actual date of Birth of the respondent No.3/landlord is “25-5-1943”. This being the position, as on the date of issuance of the notice, the respondent No.3/landlord had crossed the age of 70 years and was very much entitled to have the benefit of Section 12 (2) of the Chhattisgarh Rent Control Act, 2011, providing concession to 'senior citizen' to have the notice period limited to 'one month'.
6. In the above circumstances, the verdicts passed by the learned Rent Controller Authority and the Appellate Authority are beyond any challenge. We find no merit in the writ petition and it stands dismissed

accordingly.

7. On dismissal of the writ petition as above, the learned counsel for respondent No. 3/landlord submits that the possession has already been obtained, pursuant to the execution proceeding, but a lock has been put by the Tahsildar, since some of the personal belongings of the writ petitioner/ tenant are still lying inside. The learned counsel submits that respondent No. 3/landlord does not have any objection at all in lifting the said items by the petitioner/ tenant.
8. Learned counsel for the petitioner submits that the petitioner might be permitted one week's time to take all the belongings.
9. As agreed by the parties, we fix **29th July 2019** as the date on which the materials could be collected by the petitioner and on that day, the petitioner as well as the respondent No.3/landlord or his representative shall be present on the spot **between 10:30 a.m. and 12:30 p.m.** so as to facilitate the petitioner to take out the belongings. The Tahsildar, having jurisdiction over the area, shall be present on the spot and a Mahazar shall be prepared in this regard, to be kept as a part of record in his office, in connection with the issue involved.
10. The learned State counsel is required to inform the position to the Tahsildar concerned.

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

Sd/-
(Parth Prateem Sahu)
 Judge