

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2239 of 2019**

Spectrum Infonet Private Limited, Through Its Director Bharat Agarwal, S/o. Vijay Agarwal, A/a 38 Chakardhar Nagar, Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Mantralayala, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. Rent Control Authority/Sub Divisional Officer, Raigarh, Chhattisgarh.
3. M/s Kosa Sila Emporium, Through Its Proprietor Sanjay Agarwal, S/o. Bhooramal Agarwal, R/o. Kotra Road, Near City Hospital Raigarh, Chhattisgarh.
4. Suresh Kumar Jagatramka, S/o. Late Banwari Lal Jagatramka, R/o. In Front Of Gandhi Pratima Raigarh, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Priyank Rathi, Advocate

For State/Respondents No.1&2 : Ms. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

05.07.2019

1. The present petition is filed for the following reliefs :

“(i) To kindly issue a writ of mandamus or a writ of suitable nature for a direction to Respondent No.2 that the dispute pending before it in case No.9/2013-14 between the Petitioner and Respondent No.3 & 4 be decided within 30 days time.

(ii) Any other relief which this court deems fit in the interest of justice.

2. It is contended that the petitioner has purchased certain piece of land wherein the respondent No.3, M/s. Kosa Sila Emporium, was in possession as a tenant of erstwhile landlord. After purchase of the property, the terms of settlement could not be arrived at; consequently, it led to filing of eviction

application under the Chhattisgarh Rent Control Act, 2011 (*for short "the Act of 2011"*). It is stated that the said application was filed for eviction of the respondent No.3 on 27.08.2014 and the notice having been issued, the respondent No.3 was made *ex parte* and respondent No.4 entered his appearance on 22.09.2014 and thereafter the case is pending adjudication without any effective order. It is further contended that the time as has been specified under Section 9 of the Act of 2011, the proceeding ordinarily should have been concluded within a period of six months from the date of filing of the application; therefore, the Rent Controlling Authority may be directed to decide the case within the time frame.

3. Perused the order sheets. The fact that the petitioner has filed an application for eviction against the respondent No.3 is not in dispute and the case is pending before the Rent Controlling Authority under Section 10 of the Act of 2011 is also not disputed. The order sheet of the Rent Controlling Authority would show that on 27.08.2014 the application was filed for eviction. Thereafter, the respondent No.3 was made *ex-parte* and appearance was made by the respondent No.4 on 22.09.2014 and subsequent thereto till date on some reason or other the case is adjourned.
4. Be that as it may, this is an admitted fact that the petition was filed on 27.08.2014 and after filing of the petition, the respondent No.3 entered his appearance in September 2014 itself. Section 9 of the Act of 2011 reads as under :

“Section 9 - Powers and functions of Rent Controller : -

(1) The Rent Controller shall exercise such powers, perform such functions, and discharge such responsibilities within its territorial jurisdiction, as the Government may by notification vest in him, which shall include the following:--

- (a) Reconciling dispute(s) between landlord and tenant,
- (b) Securing the rights of landlords and tenants as available to them under this Act.

(c) Enforcing the obligations enjoyed upon landlords and tenants under this Act.

(2) All proceedings before the Rent Controller shall ordinarily conclude within six months from the date of first appearance of the respondent in response to the summons issued for his appearance in the case or from the date on which the respondent is set ex-parte.”

5. Sub section 2 of Section 9 of the Act of 2011 speaks that all proceedings before the Rent Controller shall ordinarily conclude within six months from the date of first appearance of the respondent. Here in this case, the fact would suggest that six months time has been stretched to more than five years, which simply shows that the Rent Controlling Authority has failed to take into the statutory mandate of 2011 and it cannot be ordinary protracting the trial. When the legislature has framed the time frame, it cannot made dependent at the wish of the officer to make statute completely paralyzed, as it itself has defeat the object of the Act. If the officer is unable to do so than it is for the higher authorities to take up the issue so that the object and statute can be upheld which is the supreme and the object cannot be made porous.
6. In the circumstances, taking into the facts of this case, it is directed that the Rent Controlling Authority shall finally adjudicate the case of the petitioner within a further period of two months from the date of receipt of a copy of this order.
7. With such observation/direction, the writ petition stands disposed of.

Sd/-
Goutam Bhaduri
Judge