

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**WPC No. 397 of 2020**

Ashruta Chakravarti W/o Late Udyan Chakravarti, aged about 52 years, R/o Agrasen Chowk Ambikapur District Sarguja, C.G.

-----Petitioner

VERSUS

1. C.G. Rent Control Tribunal, Raipur C.G.
2. Dipan Chakravarti S/o Late J.C. Chakravarti, aged about 65 years, R/o Agrasen Chowk Ambikapur District Sarguja, C.G.
3. Ballu Thakur R/o Agrasen Chowk Ambikapur District Sarguja C.G.

-----Respondents

For Petitioner	:	Mr. S.B. Pandey, Advocate.
For Respondent No. 2	:	Mr. B.N. Nande with Mr. Priyanshu Gupta, Advocate
For Respondent-State	:	Mr. Siddharth Dubey, Dy. G.A.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge
Judgment on Board

Per Parth Prateem Sahu, J.**05/03/2020**

1. Challenge in this petition is to the order dated 26-11-2019 passed in Miscellaneous Appeal No. 10/2019 passed by Chhattisgarh Rent Control Tribunal, Raipur, Chhattisgarh, whereby the miscellaneous appeal filed by the 2nd respondent was allowed and the Order of the Rent Control Authority, Ambikapur, allowing the application filed by the petitioner under Order 1 Rule 10 of C.P.C. was dismissed.
2. The case of the petitioner is that shops have been constructed over the land bearing Khasra No. 2834, 2835 and 2836/2 ad-measuring Rakba 0.07, 0.03, 0.06 acre respectively situated at Agrasen Chowk, Ambikapur. The shops have been given on rent to different tenants out of whom Respondent No. 3 is one of the tenants. Initially the property is said to have been owned by Smt. Nirupama Chakravarti who had rented the shops and after her death, her legal heirs were receiving the rents of the shops. Udyan Chakravarti was receiving the rent on behalf of the legal heirs of Late Nirupama Chakravarti. Udyan Chakravarti also

died in the month of February, 2015 and thereafter the petitioner herein was receiving the rent of the shops.

3. The Respondent No. 2 filed an application for eviction of tenant from the subject shop before Rent Control Authority. The petitioner had filed an application under Order 1 Rule 10 of C.P.C. In the proceedings of eviction before the Rent Control Authority, the application was allowed by the Rent Control authority but in an appeal filed by the 2nd Respondent, the Rent Control Tribunal set aside the order passed by the Rent Control Authority, allowing the application of the petitioner for impleading her as one of the non-applicants.
4. The learned counsel for the petitioner also submitted that the Rent Control Tribunal without taking into consideration that the tenants have denied the ownership of the 2nd Respondent and she being owner of subject shop is receiving the rent from the tenant, allowed the appeal filed by the 2nd Respondent against the order of the Rent Control Tribunal. The petitioner has filed this petition with the following prayers:

“10.1 That, this Hon'ble Court may kindly be pleased to call for entire records pertaining to the case of petitioner for its kind perusal of this Hon'ble court.

10.2 That, this Hon'ble Court may kindly be pleased to direct the respondent authority to add the name of petitioner and give opportunity of hearing the petitioner on merit to following the doctrine of natural justice & kindly quash the order dated 26/11/2019 in the interest of justice, and

10.3 Any other relief, which may be deemed, fit by this Hon'ble Court just and proper in the facts and circumstances of the case.”

5. The learned counsel appearing for the 2nd Respondent objected the submission made by the learned counsel for the petitioner and submitted that the 2nd respondent is the recorded owner of the property in dispute and therefore, he has filed an application before the Rent Control Authority for eviction of the tenants. It is pointed out that the dispute, as raised by the petitioner, is of the title which cannot be decided in the application for eviction before the Rent Control Authority, but can be decided by the Civil Court. The Tribunal after taking into consideration

the judgment of Hon'ble Supreme Court in the matter of **Kanaklata Das and Ors v. Naba Kumar Das and Ors** reported in **2018 (2) SCC 352** has rightly passed the impugned order which do not call for any interference.

6. It is brought to the notice of this Court by the learned counsel for the petitioner that the Civil Suit is already pending before the competent Civil Court between the parties.
7. At this stage, the learned counsel for the petitioner seeks permission of this court for withdrawal of this Writ petition with liberty to raise all the grounds available to the petitioner in Civil Suit pending between the parties or before the appropriate forum available to her under the law.
8. Permission sought for by the learned counsel for the petitioner is granted.
9. The writ petition is dismissed as withdrawn with the aforesaid liberty.

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

Sd/-
(Parth Prateem Sahu)
Judge