

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 93 of 2021

1. Seema Sharma, W/o. Late Arun Kumar Sharma, aged about 56 years (Wrongly mentioned as 48 years in appeal filed before Rent Control Tribunal), R/o. Katora Talab, Raipur, Tehsil and District Raipur Chhattisgarh.
2. Asha Arora, D/o. Butamal Arora, aged about 54 years, (Wrongly mentioned as 50 years in appeal filed before Rent Control Tribunal) R/o. Katora Talab, Raipur, Tehsil and District Raipur Chhattisgarh.

---- Petitioners

Versus

1. Rent Controller, Raipur, having Its Office at District Raipur Chhattisgarh (Not Made A Party In Appeal Before Rent Control Tribunal But A Necessary Party For Adjudication Of This Case).
2. Tehsildar Raipur, Having Its Office At District Raipur Chhattisgarh (Not Made A Party In Appeal Before Rent Control Tribunal But A Necessary Party For Adjudication Of This Case), District : Raipur, Chhattisgarh
3. Kewal Kishan Dhuppad, S/o. Late Harbhagwan Das Dhuppad, Aged About 67 Years, R/o. Katora Talab, Shyam Nagar Road, Near Kalda Nursing Home, Katora Talab, Tehsil And District Raipur Chhattisgarh.

-----Respondents

For Petitioners : Mr. Trivikram Nayak, Advocate

For State-Respondent No.1 &2 : Mr. Devendra Pratap Singh, Dy.A.G.

For Respondent No.3. : Mr. Goutam Khetrapal, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

15/02/2021

1. This petition under Article 227 of the Constitution of India has been brought being aggrieved by the order dated 15.06.2020, passed by the Rent Controlling Authority, Raipur, District – Raipur (C.G.), in Case No.84-90(8)/2016-17, by which the petitioners have been directed to be evicted and there is also a direction of

payment of arrears of rent of Rs.2,75,000/- to the respondent No.3.

2. Heard the learned counsel for both the parties.
3. As per the submissions made, the present petition under Article 227 of the Constitution of India has been brought on this ground that the C.G. Rent Controlling Tribunal is non-functional due to vacancy in the seat of Chairman and Members. The petitioners have separately preferred an appeal under Section 13 of the Rent Control Act, 2011, which is pending without any progress.
4. The new development is this, that vide order dated 09.02.2021, the State Government has passed order for appointing Chairman of the Rent Control Tribunal. The order passed is No.F1-2/2021/32 Rent Control Act, 2011 dated 09.02.2021.
5. State Government has exercised the power under Section 6 (2) of the Act and appointed the Chairman for the Tribunal. Exercise of power and discharge of the function, C.G. Rent Control Rules, 2015 have been separately framed. Rule -3 of the Rules, 2015 empowers the Chairman to constitute benches, which may be of one or more members. Rule -4 of the Rules, 2015, however provides under Clause-1 that an appeal on rent control and for eviction and arrears of rent shall be heard and disposed off by the double bench, however, in case of non-availability of the members of Tribunal, a member sitting alone is also empowered to decide the matter before it under Clause-3 of Rule, 2015. The difficulty has been clarified in Rule -5 of the Rules, 2015 that

Chairman and the Member alone when functioning as Tribunal shall have all the powers vested under this rule in bench of more than one member. As there is no information at present regarding appointment against vacancy of the members of the Tribunal, even if it is so that there is no such appointment so far, in view of the rules mentioned herein-above, the Chairman can also function and pass the orders on appeal against an order of Rent Controlling Authority.

6. The situation before this Court is this that the Tribunal has become functional, however, this petition has been filed under Article 227 of the Constitution of the India, which may be due to ignorance by the petitioners' side. The petitioners have statutory remedy available under the Rent Control Act, 2011 and they have already filed an appeal before the Tribunal, which is pending, hence, the petitioners have all the liberty to approach the Tribunal and make their submissions for grant of relief/interim relief before the Tribunal.
7. Hence, under these circumstances, this Court can not proceed with the hearing of this petition under Article 227 of the Constitution of India, hence, this petition is disposed off at motion stage. The petitioners are granted liberty to approach the Tribunal and seek relief in the appeal as per their requirement. As there shall be time gap in which the petitioners will have to approach the Tribunal to pray for relief/interim relief, therefore, it is ordered that the order of eviction in the impugned order shall

not be given effect to for a period of 15 days from today. The petitioners are directed to approach the Tribunal and seek relief in the appeal filed by them.

8. Accordingly, the petition is disposed off with aforesaid observation.

C.C. today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Arun