

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1241 of 2021

- Bhisham Lal Banchhor S/o Janak Ram Banchoor Aged About 78 Years R/o House No. 632, Mukta Nagar, Maharaja Chowk Durg, Tahsil And District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Collector /District Magistrate Durg District Durg Chhattisgarh
3. Superintendent Of Police Durg District Durg Chhattisgarh
4. Rakesh Kumar Shrivastava S/o Late Ramkrishana Lal Shrivastava R/o C/o House No. 632, Mukta Nagar, Maharaja Chowk Durg, Tahsil And District Durg Chhattisgarh

---- Respondents

For Petitioner	:	Shri Praveen K. Dhurandhar, Advocate
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For Respondent/ State	:	Shri Aditya Tiwari, P.L.
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Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03.03.2021

Heard.

1. Learned counsel for the petitioner submits that the respondent No. 4 is the tenant of the petitioner. The petitioner being senior citizen the respondents is not vacating the premises thereby the petitioner is running from pillar to post to get his house vacated. He would submit that the agreement from which Respondent No. 4 was inducted as tenant is already expired and as per Chapter 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and Section 19 & 20 of the rules 2009, protection of life and property of senior citizen are to be taken care of by the State

government and therefore the rules have been framed of the like nature. Therefore, when the application has been filed before the District Magistrate by the petitioner, the same is not being taken care of. Therefore, respondent may be directed to take measures as per the Act of 2007 rules made therein.

2. The submission of the petitioner appears to be completely misconceived as the Act of 2007 has been promulgated in the background of the fact that due to withering of the joint family system large number of elderly people are not being looked after by their family. Consequently many old persons particularly widowed women are forced to spend their twilight years all alone exposed to emotional neglect and lack of physical and financial support, therefore it was thought that the parents can claim maintenance under the Court and other relief. Therefore the object of the Act is for the benefit of the Senior citizens qua the children when they do not look after their parents or the senior citizens are neglected by their family members. The issue which has been highlighted by the petitioner that the Respondent No. 4 is the tenant and after termination of the lease agreement the Respondent No. 4 is not vacating the premises. If such condition exist, the senior citizen can avail the special remedy available under the Rent Control Act for eviction. The Act of 2007 is not for eviction of the third party tenant. Consequently, the District Magistrate cannot encroach upon to usurp the power of the Rent Control Act or usurp the power for the citizen under the common law.
3. In view of this, the petition sans merit is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge