

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPC No. 1793 of 2021

1. Smt. Bharti Devi Sajwani W/o Lt. Kripal Das Sajwani Aged About 60 Years R/o Sindhi Colony Road, Near Dhan Gurunanak Darbar, Jarhabhatha, Bilaspur, Tahsil And District-Bilaspur, Chhattisgarh.
2. Vinod Kumar Sajwani S/o Lt. Kripal Das Sajwani Aged About 38 Years R/o Sindhi Colony Road, Near Dhan Gurunanak Darbar, Jarhabhatha, Bilaspur, Tahsil And District-Bilaspur, Chhattisgarh.
3. Vijay Kumar Sajwani S/o Lt. Kripal Das Sajwani Aged About 32 Years R/o Sindhi Colony Road, Near Dhan Gurunanak Darbar, Jarhabhatha, Bilaspur, Tahsil And District-Bilaspur, Chhattisgarh.

--- **Petitioners**

Versus

1. Onkar Prasad Sajwani S/o Lt. Bahrumal Sajwani Aged About 67 Years R/o Sindhi Colony Road, Near Dhan Gurunanak Darbar, Jarhabhatha, Bilaspur, Tahsil and District-Bilaspur, Chhattisgarh.
2. The Rent Control Authority Bilaspur, District- Bilaspur, Chhattisgarh. --- **Respondents**

26.03.2021	Mr. Manoj Paranjpe with Mr. Rahul Mishra, counsel for the petitioners. Mr. Ratnesh Agrawal, counsel for respondent No.1. The petition is again the order dated 09.03.2021 wherein the application filed under Order 7 Rule 11 has been rejected by holding that the issue raised by the petitioners relating to relation of landlord and tenants would require evidence. The submission of the petitioners is that the husband of petitioner no.1 and father of repartitioners 2 & 3 namely Kripal Das Sajwani has jointly purchased the property with Onkar Prasad Sajwani. Subsequently Kripal Das sold his portion of property to Onkar Prasad Sajwani on 26.10.1981. Thereafter, Kripal Das having expired, his legal heirs i.e., the petitioners herein are in occupation of the first floor and in the ground floor, respondent no.1 is in occupation. Learned counsel submits that the respondents could have moved an application u/s 5 & 6 of the Specific Relief Act for possession of the	

property, however, the said possession cannot be sought under the Rent Control Act which is a summary procedure. He would submit that under these circumstances, the petitioners have moved an application under Order 7 Rule 11 of CPC which has wrongly been rejected.

Learned counsel for respondent no.1 opposes the argument.

A perusal of the record would show that the issue no.2 has been framed as to whether the relation of landlord and tenant exists in between the petitioners and respondent no.1. The learned Rent Control Tribunal by its order dated 09.03.2021 has observed that the relation of land lord and tenant can only be established only when the evidence is adduced, which can be decided during the course of trial. I do not find any infirmity in such an order. If the the relation of lord and tenant is established during the course of trial, then certainly the Rent Control Tribunal shall have a jurisdiction, which would be required to be proved by evidence of both the parties. Therefore, at this stage, the mere submission of the petitioners that they are not tenants and the relation of landlord and tenants do not exists would amount to acceptance of a submission without any evidence. The petition sans merits and is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**