

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3472 of 2021**

- Babulal Singh, S/o Late Shri Sadhu Singh, Aged About 72 Years R/o Saini Vyapari Bada (Dera) New Bhainsthan, Raipura, New Jayka Ke Samne, Ring Road No.1, Raipur, Tahsil And District Raipur Chhattisgarh.

---- Petitioner

Versus

- Shri Gurumel Singh Saini, S/o Late Gurucharan Singh Saini, Aged About 54 Years R/o Naseeb Dairy, Vijaya Bank Ke Samne, Main Road, Shyam Nagar, Raipur, Tahsil And District Raipur Chhattisgarh

---- Respondent

For Petitioner :- Mr. R.N. Pusty, Advocate

Proceedings through Video Conferencing

Hon'ble Shri Prashant Kumar Mishra, Ag.CJ
Hon'ble Smt. Rajani Dubey, J
Order On Board

By**Prashant Kumar Mishra, Ag.CJ****27/08/2021**

1. Challenge in this writ petition is to the appellate order dated 22.7.2021 (Annexure P6) passed by the C.G. Rent Control Tribunal, Raipur in Misc. Appeal No.16/2020, dismissing the petitioner's appeal, which, in turn, had called in question the

order dated 27.1.2020 (Annexure P4) passed by the Rent Controller, Raipur in case No.18-19(8) Year 2014-15 dismissing the petitioner's application under Order 6 Rule 17 read with Section 151 of the CPC.

2. The respondent Gurumel Singh Saini has preferred an eviction application under Section 12 (2) read with Schedule 2 entry 10, entry 11 (b)(h) of the C.G. Rent Control Act, 2011 seeking petitioner's eviction from the subject premises. The petitioner is defending the action by filing his written statement (P2). When the proceedings have reached to the stage of recording of evidence, the subject application under Order 6 Rule 17 read with Section 151 of the CPC has been preferred seeking amendment in the written statement.
3. It is mainly contented that the issue of non service of notice before initiation of eviction proceedings has not been specifically pleaded, therefore, the amendment would be necessary for proper adjudication of the matter.
4. On perusal of the written statement, particularly para 5 thereof, it is clear that the petitioner has specifically pleaded that he has not received any legal notice (वैधानिक सूचना). Thus, the pleadings concerning non receipt of notice is already made in the written statement. Even otherwise once recording of evidence has begun, amendment is ordinarily

not accepted in view of proviso to Order 6 Rule 17 of CPC.

5. At this stage, it is argued that the procedure prescribed in the CPC is not applicable to the proceedings before the Rent Controller.
6. This argument is self defeating for the simple reason that the petitioner himself has moved an application under Order 6 Rule 17 CPC, therefore, at least for the subject issue wherein his application under Order 6 Rule 17 CPC has been disallowed, the argument is not acceptable.
7. In the result, the writ petition is liable to be and is hereby dismissed at the motion stage itself.

SD/-
(Prashant Kumar Mishra)
Acting Chief Justice

SD/-
(Rajani Dubey)
Judge