

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.421 of 2021

- Naresh Tuli S/o Late Ranjit Rai Tuli Aged About 44 Years R/o Durpa Road, Korba Director Jeet Cycle Stores, Gandhi Chowk, Korba Post, Tahsil And District Korba Chhattisgarh

---- Petitioner

Versus

- Keshar Singh Rajput S/o Late Narhar Singh Rajput Aged About 44 Years R/o Gandhi Chowk, Korba Post, Tahsil And District Korba Chhattisgarh

---- Respondent

For Petitioner

– Mr. Parag Kotecha, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-08-2021

Heard.

1. This petition has been brought being aggrieved by the order dated 12.08.2021, passed in Miscellaneous Appeal No.17/21, by the Rent Control Tribunal, Korba, C.G.
2. Respondent has filed an application under Section 4 of Rent Control Act, 2011, praying for eviction of the petitioner/non-plaintiff from the premises on the basis of their relationship as landlord and tenant.
3. It is submitted by the learned counsel for the petitioner that the petitioner has filed preliminary objection on the ground that the application for eviction is not maintainable on the basis of the statement in the application filed for eviction itself. The respondent has himself pleaded that an agreement to sale was entered on 15.02.2013 between the respondent and the petitioner. It is also stated that the petitioner has made the partial payment but he has not paid the remainder amount of

consideration. It is submitted that on the basis of this agreement and the statement of the respondent, the relationship of landlord and tenant is no longer existing.

4. It is further submitted that Section 4 of Rent Control Act, 2011 provides that after the act has come to force, any tenancy can be created only by an agreement in writing. The respondent has not produced any such agreement in writing. Neither such agreement has taken place. The learned Rent Control Authority, Korba, has dismissed the objection. The Miscellaneous appeal filed has also been dismissed by the learned Tribunal in an arbitrary manner. Hence, the impugned order is not sustainable.
5. Considered on the submissions, the respondent has made statement regarding the execution of agreement for sale dated 15.02.2013 and he has also stated that there was a tenancy continuing before the date of agreement. There is no such mention in the statement in objection of the petitioner. However, it is clear that the agreement to sale though exists but the registration of sale to that property has not taken place so far. There is statement of respondent that the tenancy agreement is continuing because the sale between the parties is not complete so far, this can be rebutted and contested only by submitting reply. The respondent statement regarding land lord tenant relationship cannot be rejected without inquiry. Therefore, no error has been committed by the learned Tribunal or by the learned Rent Controlling Authority. Hence, this petition is dismissed and disposed off at the motion stage.
6. Accordingly, this petition stands disposed off.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge