

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3101 of 2020**

- Gulam Hussain Khokhar S/o Allahuddin Khokhar Aged About 53 Years
Address- Shop No. B/28, Wholesale Vegetable And Fruit Market, Dhamdha Raod, Tehsil And District- Durg, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- Secretary, Krishi And Pradyagik Department, Mahanadi Bhawan, Atal Nagar, District- Raipur- 492002
2. Managing Director, Chhattisgarh Krishi Vprant (Mandi) Board, Beej Bhawan G.E. Raod, Telibandha, District- Raipur, Chhattisgarh
3. Collector, District- Durg, Chhattisgarh
4. Secretary Krishi Upaj Mandi, Durg, District- Durg, Chhattisgarh
5. Competent Authority Chhattisgarh Lok Parisar Bedakhli, District- Durg, Chhattisgarh
6. Krishi Upaj Mandi Samiti, Through Its Secretary, Krishi Upaj Mandi Samiti, District- Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Anand Shukla, Advocate
For Respondents/ State	:	Shri Gagan Tiwari, G.A.
For Respondent No. 2	:	Shri Amrito Das, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08.01.2021**

Heard

1. Learned counsel for the petitioner would submit that the petitioner was rehabilitated in a shop in the year 2009 and the annual rent was fixed of Rs. 2,500/-. Subsequently, certain dispute arose which led to a proceeding under C.G. Lok Parisar (Bedakhali) Adhinyam, 1974 (for short 'Act of 1974') and an order of eviction was passed on 25.07.2011 (Annexure P-3). The

said order was subject of appeal before the Collector Durg and the said appeal was dismissed by order dated 01.07.2013 (Annexure P-4). He further submits that even thereafter the order of eviction was not executed immediately and the petitioner was served with a notice to pay the arrears of rent whereby the Respondent No. 6 has accepted the petitioner to be the occupant of the premises and thereafter for years have accepted the rent thereby the stigma of unauthorized occupant was removed by the respondents itself. He further submits that thereafter the petitioner was pressed to deposit the arrears of rent and otherwise he would be forcefully evicted.

2. Learned counsel for Respondent No. 2 opposes the argument and would submit that the order of eviction is dated 25.07.2011 which was also affirmed in the appeal decided on 01.07.2013, therefore no relief can be granted as of now.
3. Section 2 (G) of the M.P. Lok Parisar (Bedakhali) Adhiniyam, 1974 reads as under:-

(g) "unauthorised occupiaion" in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

4. Undoubtedly, the eviction order was passed under the Act, 1974 initially on 25.07.2011 against the petitioner which was affirmed in the appeal by the order dated 01.07.2013 (Annexure P-4). Consequently, it appears that the

eviction order which was initially passed has reached its finality. Therefore, the argument of the petitioner cannot be appreciated for the reason that the occupancy is made legal.

5. The definition of Section 2 (g) purports that unauthorized occupation would include that though the person is continuance in occupation but it has been determined for any reason whatsoever. Here the statutory order dated 25.07.2011 has already determined the status and has annulled relation to be that of legal occupant as such even if the rent was being paid it cannot be said to have legalized the occupancy as there cannot be estoppel against the law. Furthermore, Section 10 of the Act of 1974 gives the finality to the order. Consequently, when the order of eviction has been passed and it has reached its finality it cannot be subsequently be held to be legal so as to convert the occupancy of the petitioner to be legal one. In view of this, I am not inclined to interfere with the order.

6. Accordingly, the petition stands dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti