

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3087 of 2020**

Hemraj Sonkar S/o Late Shri Kanhiyalal Sonkar Aged About 46 Years
Address Shop No. 27, Wholesale Vegetable And Fruit Market, Dhamdha
Road, Tehsil And District Durg Chhattisgarh. **---- Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Krishi And Pradyogik Department, Mahanadi Bhawan, Atal Nagar, District Raipur 492002.
2. Managing Director Chhattisgarh Krishi Viprant (Mandi) Board, Beej Bhawan G.E. Road, 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 Avinash N. Mishra, Advocate.

For Respondents/ State : Shri Gagan Tiwari, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****25/08/2021**

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) Adhiniyam, 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. 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.

3. 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.
4. 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.

5. Accordingly, the petition stands dismissed.

Sd/-
(Goutam Bhaduri)
Judge