

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 495 of 2020

1. Krishna Kumar Sharma, S/o. Late Shri Ramnarayan Sharma, aged about 74 Years, R/o. Lakholi, Ward No. 30, Janta Colony Rajnandgaon (Chhattisgarh).
2. Girish Sharma, S/o. Krishna Bhai Sharma, aged about 41 years, R/o. Swastik Studio, Kamti Line, Near Sani Mandir Rajnandgaon (Chhattisgarh).

---- Petitioners

Versus

Jivanchand Kankariya, S/o. Shri Rajmal Kankariya, aged about 62 years, R/o. Kamti Line, Near Sani Mandir, District Rajnandgaon (Chhattisgarh).

-----Respondent

For Petitioners	: Mr. Aditya Bhardwaj, Advocate
For respondent	: Mr. Ashish Surana, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

15/01/2021

1. This petition under Article 227 of the Constitution of India has been brought against the order dated 21.10.2020, passed in Revenue Case No.15/35A-90/2016-17, by the Rent Control Officer, District – Rajnandgaon (C.G.) directing the eviction of the petitioners from the tenanted premises and also directing the payment of arrears of rent of Rs.1,88,000/-.
2. It is submitted by the learned counsel for the petitioners that the petitioners have filed an appeal against the impugned order before the Rent Controlling Tribunal, Raipur in which, an application for grant of interim relief has also been filed. As the Rent Controlling Tribunal is lying vacant at present, therefore, the appeal filed could

not be heard and no order could be passed. Hence, this petition under Article 227 of the Constitution of India has been filed.

3. Counsel for the respondent submits that the present petition and the appeal pending before the Rent Controlling Tribunal both can not survive at the same time, therefore, one of the petition has to be disposed off with appropriate orders.
4. Considered on the submissions. The vacancy in the Rent Controlling Tribunal, Raipur may be fulfilled in time in the near future and if it happens, the petition before this Court under Article 227 of the Constitution of India shall become infructuous for the simple reason that the Tribunal has the jurisdiction and authority to hear appeal against the order passed by the Rent Controlling Authority. Hence for this reason, the present petition is disposed off. However, it is directed that the order of eviction in the impugned order shall not be given effect to until the vacancy in the Rent Controlling Tribunal is fulfilled. There is no stay with respect to the order passed by the Rent Controlling Authority regarding payment of arrears of rent. The petitioners are also directed to pay the penal rent of the rented premises at the same rate of Rs.4,000/- per month until he is in occupation of the disputed premises. In case any default is committed then the respondent shall have entitlement to execute the order of the Rent Controlling Authority.
5. Accordingly, this petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge