



HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (227) No.484 of 2021

M/s Sourabh Fuels Through Proprietor Jagdish Prasad Yadav, Aged About 71 Years, S/o Baheia Ram Yadav, R/o Nevera, Post Office And Police Station Nevera, Tahsil Nevera, District Raipur, Chhattisgarh.

---Petitioner(s)

Versus

Suresh Kumar Goyal S/o Ratanlal Goyal Aged About 67 Years R/o Nevera, Post Office and Police Station Nevera, Tahsil Nevera, District Raipur, Chhattisgarh.

Respondent(s)

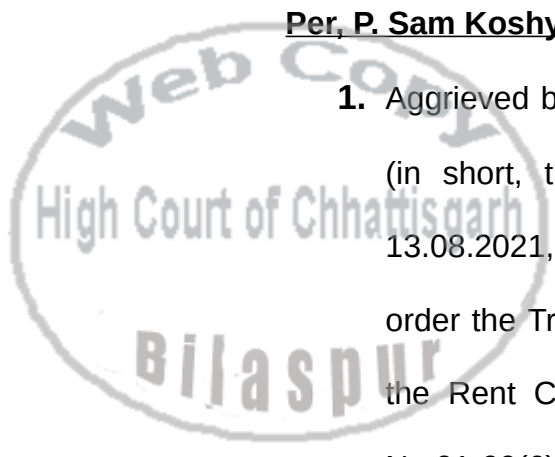
For Petitioner	:	Shri Sabyasachi Bhaduri, Advocate.
For Respondent	:	Shri Pranjal Agrawal and Ms. Vidhi Agrawal, Advocates.

**D.B. Hon'ble Shri Justice P. Sam Koshy &
Hon'ble Shri Justice Parth Prateem Sahu, J.J.**

Judgment Delivered on 16.09.2022.

Per, P. Sam Koshy, Judge

1. Aggrieved by the order passed by the Chhattisgarh Rent Control Tribunal (in short, the Tribunal) Raipur in Appeal Case No.08-A/2020, dated 13.08.2021, the present writ petition has been filed. Vide the impugned order the Tribunal has affirmed by the order dated 13.02.2020 passed by the Rent Controlling Authority, Raipur (in short the Authority) in Case No.01-90(6) Year, 2017-18, and has rejected the appeal preferred by the petitioner.
2. The facts relevant for disposal of the writ petition is that the respondent-Suresh Kumar Goyal owns a subject land situated at Khasra Nos. 356/1 and 357/2 admeasuring 0.80 dismal adjoining the properties belonging to the petitioner. The respondent leased out a portion of property measuring 120X120=14,400 sq. feet at village Sasaholi, PH No.7, Tehsil Tilda, District Raipur in favour of the petitioner. The said subject land was taken on rent by the petitioner at a monthly rent of Rs.17,709/-. The lease/rent was executed in the year 1994 initially for a period 15 years i.e. till 23.4.2009.





Thereafter, fresh rent agreement was entered into for the period between 05.04.2009 to 04.04.2018.

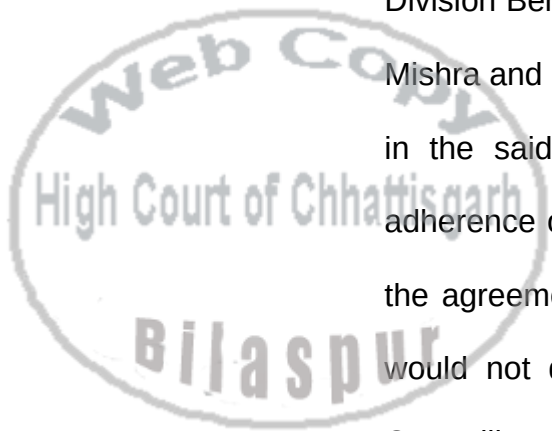
3. Subsequent to the expiry of the lease in the year, 2018, the respondent issued a notice of eviction under Section 12(2) read with Schedule-II Clause-11(h) of the Chhattisgarh Accommodation Control Act, 2011 (in short, the Act of 2011). In spite of specific notice of eviction having been issued, since the petitioner did not evict the premises, an application before the Authority seeking for an order of eviction was filed. The Authority vide his order dated 13.02.2020 allowed the application and directed the petitioner herein to immediately vacate the said premises within a period of one month.
4. Aggrieved by the order passed by the Authority dated 13.02.2020, the petitioner preferred an appeal before the Tribunal where the case was registered as Appeal Case No.08-A/2020. The Tribunal also vide the impugned order dated 13.08.2021 while rejecting the appeal of the petitioner has affirmed the order passed by the Rent Controlling Authority and has further directed the petitioner herein to vacate the premises within a further period of one month. It is this order which is under challenge in the present writ petition under Article 227 of the Constitution of India.
5. Primarily the writ petition has been filed on three grounds. Firstly, since the agreement entered into between the parties was not an agreement in consonance to the requirement as is laid down under the Act of 2011, the provisions of the Act of 2011 would not be applicable. The second ground raised by the petitioner was that the provisions of the Act of 2011 also would not be attracted in the facts of the present case as it was only a land which was leased out on rent by the respondent. The Act of 2011 would only be applicable upon an accommodation/building and the land attached to the accommodation of the building. In other words, it was contended by





the petitioner that the said provision of law would not be applicable upon the land which was on lease.

6. The third ground taken by the petitioner was that both the parties below have failed to take note of the fact that the Indian Oil Corporation, of which the petitioner was dealer, was a necessary party and in the absence of the Corporation being made a party before the two authorities below, the two proceedings deserve to be rejected on the ground of non joinder of necessary party.
7. As regards the first ground of agreement entered into between the parties not meeting the requirement as is laid down under the Act of 2011, the said issue is no longer res integra in the light of a recent decision of Division Bench of this Court in case of Shrawan Kumar Saraf Vs. Ravikant Mishra and Others, WPC No.650 of 2020. The Division Bench of this Court in the said judgment has in a very categorical terms held that non adherence of the Chhattisgarh Rent Control Act, 2011 or for that matter the agreement between the parties not being in accordance with the Act would not debar under law to pursue his application before the Rent Controlling Authority. Thus, the said objection stands decided against the petitioner.
8. As regards the second objection whether the property involved in dispute in the present petition would fall within the definition of an accommodation as defined under Section 2(a) of the Act of 2011, undoubtedly the property leased out by the respondent in favour of the petitioner was an open land over which the petitioner has developed a retail outlet of Petrol and Diesel. According to the petitioner, an open land independently would not fall within the definition of an accommodation under Section 2(i) of the Act of 2011 and the two authorities have ignored the aspect of jurisdiction and the scope of the Act of 2011 on this point.





9. For ready reference the definition of an accommodation as is reflected under Section 2(i) of the Act of 2011 is reproduced hereinunder:

“(1)"Accommodation" means any building or part of a building, whether residential or non-residential, leased out by the landlord to the tenant and includes open space, staircase, grounds, garden, garage and all facilities and amenities forming part of the agreement between them of any land which is not being used for agricultural purposes.”

10. Now for proper understanding of the dispute, it would also be relevant to take note of the Hindi version of the definition of an accommodation under the Act of 2011 which again for ready reference is being reproduced hereinunder:

क-“स्थान” से अभिप्रेत है कोई भवन या किसी भवन का भाग, चाहे वह नैवासिक हो या अनैवासिक और उसके अंतर्गत आता है/आती है-

एक-कोई ऐसी भूमि जो कृषिक प्रयोजनों के लिए उपयोग में न लाई जा रही हो,

दो-ऐसे भवन या भवन के भाग से अनुलग्न उद्यान, मैदान, गैराज तथा उपगृह आउट हाउस, यदि हो तो,

तीन-कोई ऐसी फिटिंग जो ऐसे भवन या भवन के भाग के अधिक लाभप्रद उपयोग के लिये उसमें लगाई गई हो,

चार-कोई ऐसा फर्नीचर जो ऐसे भवन या भवन के भाग में उपयोग में लाये जाने के लिए भू-स्वामी द्वारा दिया गया हो”

11. There is also no dispute on the aspect that if there is any ambiguity in understanding or interpreting the provisions of law from its English language then the assistance could be taken from the Hindi version of the said provision. It is the Hindi version of the said provision which would be considered to be more authentic and acceptable. A plain reading of the definition of an “accommodation”, more particularly the one in Hindi, would clearly reflect that the definition of accommodation is inclusive of any land which is not being used for any agricultural work.

12. The said part highlighted in the Hindi version of the definition cited above finds place at the end of the definition of “accommodation” in its definition





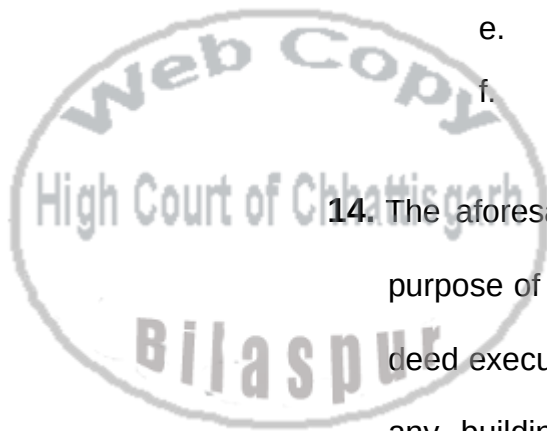
of accommodation in the English version wherein it has been reflected as “any land which is not being used for agriculture purpose.”

13. If we read at the definition of accommodation under the Act of 2011, it would clearly indicate that there are classifications made by the law makers while enacting the definition of accommodation to include all those properties within the definition of accommodation for the purpose of attracting the Act of 2011. While classifying the different nature of properties, the law makers brought within the definition of accommodation-

- a. an open space
- b. staircase
- c. grounds
- d. garden
- e. garage
- f. all facilities and amenities forming part of the agreement and any land which is not being used for agricultural purposes.

14. The aforesaid classification would clearly give an indication that for the purpose of attracting the Act of 2011 all that which is required is the lease deed executed in writing between the landlord and the tenant in respect of any building or a part of a building whether for residential or non residential purpose and would also include any land which is not being used for agriculture purpose. This, in other words also means that even in respect of an open land which otherwise is not being used for agriculture purpose, if given on rent or lease and there being a written agreement between the landlord and the tenant, the said open land also fall within the definition of accommodation under the Act of 2011.

15. Another fact which needs to be appreciated at this juncture is that, the earlier law governing the field i.e. the Chhattisgarh Accommodation Control Act, 1961 (in short, the Act of 1961) also had the same definition of





accommodation under Section 2(a) of the Act of 1961 and which for ready reference is being reproduced hereinunder:

“2(a) **“accommodation”** means any building or part of a building, whether residential or non-residential and includes,-

- (i) any land which is not being used for agricultural purposes;
- (ii) garden, grounds, garages and out-houses, if any, appurtenant to such building or part of the building;
- (iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;
- (iv) any furniture supplied by the landlord for use in such building or part of building”

16. For the aforesaid reasons, the said ground raised by the petitioner so far as the applicability of the Act 2011 on the subject land is concerned is again decided in the negative against the petitioner holding that the provisions of the Act, 2011 would also be applicable upon the property taken on rent or lease even if it is an open land.

17. Now coming to third ground of non joinder of the Indian Oil Corporation as a necessary party, admittedly in the instant case the respondent is a landlord. There is also no dispute that it was the petitioner who was the tenant. The rent agreement or lease deed was also executed between the respondent and the petitioner herein. Nowhere was the Indian Oil Corporation involved at any point of time. Thus, it is a clear case where the dispute is between the petitioner and the respondent who are the tenant and the landlord. The proceedings having been initiated under Section 12(2) read with Clause -11(h) of Schedule-II, the application could had been filed only between the petitioner and the respondent. The relationship between the petitioner and the Indian Oil Corporation, the dealership agreement entered into between the petitioner and the Indian Oil Corporation would not be of much relevance when it comes to a lease/ rent agreement entered into between the petitioner and the respondent.





Therefore, non joinder of Indian Oil Corporation cannot be said to be ground or factor for questioning the order of Rent Control Authority or for that matter the Appellate Tribunal holding it to be bad in law warranting interference of this court. The third ground raised by the petitioner also thus does not have any force of law.

18. Another fact which needs to be considered at this juncture is that, as would be evident that the lease between the petitioner and the respondent came to an end w.e.f. 04.04.2018. Thereafter, there has been neither any renewal of the lease/rent agreement. Nor is there any fresh agreement entered into between the parties. Thereby, the lease agreement or the rent agreement between the parties having got expired w.e.f. 04.04.2018, there is no further any right available for the petitioner to assert any claim over the said property, coupled within the fact is the notice of eviction under Clause -11(h) of the Second Schedule moved under Section 12(2) of the Act of 2011 by the respondent-landlord.

19. For all the aforesaid reasons, we are of the considered opinion that no strong case has been made out by the petitioner calling for an interference with the impugned order dated 13.02.2020 (Annexure P/5) and which stands affirmed vide order dated 13.08.2021 (Annexure P/1).

20. Considering the fact that the petitioner's establishment is a Petrol and Diesel Pump being a dealer of Indian Oil Corporation dismantling and removal of structure and other equipments of the said premises would practically take some time. Hence, we are of the considered opinion that the petitioner shall ensure to vacate the premises and hand over possession to the respondent within a period of four months.

21. As a consequence, the writ petition stands dismissed.

Sd/-
(P. Sam Koshy)
Judge

Sd/-
(Parth Prateem Sahu)
Judge