

(2007) 03 CHH CK 0033
In the Chhattisgarh High Court
Case No : Civil Revision No. 568 of 2001

Kanti Prasad Rathor

APPELLANT

Vs

Smt. Gunwantin Ben Tank

RESPONDENT

Date of Decision : 09-03-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17, 115, 151
Madhya Pradesh/Chhattisgarh Accommodation Control Act, 1961 — Section 23E, 23E(2)

Citation : (2007) 3 CGLJ 387

Hon'ble Judges : Dharendra Mishra, J

Bench : Division Bench

Advocate : Bhisma Kinger, for the Appellant; M.K. Bhaduri and P.K. Tulshyan, for legal heirs, for the Respondent

Judgement

Dhirendra Mishra, J.—This revision is directed against the order dated 14.6.2001 passed by learned Rent Controlling Authority, Raipur in case No. 16/90 (8), year 1996-97 whereby the learned Rent Tribunal has rejected the application of the applicant under Order 6 Rule 17 read with Section 151 Code of Civil Procedure.

2. The applicant has preferred this revision u/s 23E of M.P. and C.G. Accommodation Control Act, 1961 and Rules, 1966 (henceforth "the Act"). Section 23E Sub-section 2 of the Act reads as under:

23E. Revision by High Court - (1).... (2) The High Court may, at any time "suo motu" or on the application of any person aggrieved, for the purpose of satisfying itself as to the legality, propriety or correctness of any order passed by or as to the regularity of the proceedings of the Rent Controlling Authority, call for and examine the record of the case pending before or disposed by such Authority and may pass such order in revision in reference there to as it thinks fit and save as otherwise provided by this section, in disposal of any revision under this section, the High Court shall, as far as may be, exercise the same powers and follow the same procedure as it does for disposal of a revision u/s 115 of the

Code of Civil Procedure, 1908 (V of 1908) as if any such proceeding of the Rent Controlling Authority is of a Court subordinate to such High Court:

Provided that no power of revision at the instance of person aggrieved shall be exercised unless an application is presented within ninety days of the date of the order sought to be revised.

3. From bare perusal of Section 23E Sub-section 2 of the Act it is evident that while disposing of any revision under this Section the High Court exercise the same powers and follow the same procedure as it does for disposal of revision u/s 115 of the CPC as if any such proceeding of the Rent Controlling Authority is of a Court subordinate to such High Court.

4. In view of proviso to Section 115 of the CPC and as per the law laid down by the Hon'ble Apex Court in the case of Surya Dev Rai Vs. Ram Chander Rai and Others, as well as in the case of Shiv Shakti Coop. Housing Society, Nagpur Vs. Swaraj Developers and Others, , the instant revision is not maintainable and accordingly, it is dismissed as not maintainable.

5. Consequently, I.A. No. 6355/02, I.A. No. 6356/02 and I.A. No. 1933/02 stand disposed of.