

P.R. No. 4780/05  
Presented by Shri. Vabhar A. Ghorwadham  
dated 15/9/05

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**IN THE HIGH COURT OF JUDICATURE AT BILASPUR**  
**CHHATTISGARH**

**W.P. NO.** 4707 /2005

**PETITIONER**

Non-applicant  
(Tenant),

:

Gulab Provision Stores

A partnership firm, through: its partner  
Kushal Chand Muth S/o. Gulab Chand  
Muth, Aged about 63 yrs, R/o. Malviya  
Road, Raipur, Distt Raipur (C.G.)

**VERSUS**

**RESPONDENT**

Applicant  
(landlord)

:

Dr. Satish Kumar Jain, Aged 57 years,  
S/o. Deep Chand Jain, R/o. Block No.  
20/59, Lodhi Colony, New Delhi.

**WRIT PETITION UNDER ARTICLE 226/227 OF THE**  
**CONSTITUTION OF INDIA**

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

WP 4707/05

मामला क्रमांक ..... सन् 200

## आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><b><u>30.9.2005</u></b></p> <p>Shri Manoj Paranjpe, counsel for the petitioner.</p> <p>Heard.</p> <p>The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 28.7.2005 passed by the Rent Controlling Authority, Durg in eviction application No.10-A/90/2004-05 whereby the Rent Controlling Authority has closed the right of petitioner herein to cross-examine the respondent herein namely Dr. Satish Kumar Jain, who himself is the applicant before the RCA and moved the application for eviction of the petitioner herein from the disputed premises.</p> <p>The notice of the petition is not being issued to the respondent, as the issuance of notice is further going to delay the proceedings of eviction. However, if the respondent still feels dissatisfied with this order, then he will be at liberty to move an application before this Court for modification/ recalling of this order.</p> <p>The case of the petitioner is that the matter was fixed before the Rent Controlling Authority, Durg for evidence of the respondent herein on 28.7.2005, on that date the applicant/respondent herein was present to adduce his evidence but counsel for the petitioner herein at Durg was not able to cross-examine the applicant/respondent herein on</p>	

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## आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>the ground that the file was with the counsel for petitioner at Bilaspur, as the same was sent to him for filing a revision petition against the earlier orders. Therefore, counsel for the petitioner at Durg sought an adjournment but the same was not allowed and right of the petitioner herein to cross-examine the appellant/respondent herein and his witnesses was closed.</p> <p>I have heard learned counsel for the petitioner.</p> <p>Learned counsel for the petitioner argued that counsel for the petitioner at Durg was not able to cross-examine the respondent herein on 28.7.2005 as the main file of the case was with Shri N.K. Sahu, Advocate, who is practicing at Bilaspur and therefore, time was sought, but the same was not allowed. He further submits that the petitioner is ready to pay the traveling expenses of the applicant/respondent herein Dr. Satish Kumar Jain from Delhi to Durg and back and also the other expenses.</p> <p>Having heard learned counsel for the petitioner and having regard to the fact that the matter pending before the Rent Controlling Authority, Durg is regarding eviction of shop where the petitioner herein is running his business and if the cross-examination is closed then the same will going to seriously prejudice the right of petitioner herein, therefore, the Rent Controlling Authority, Durg ought to have</p>	

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## आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>granted at least two days time to the petitioner herein for collecting the file from the counsel of the petitioner herein at Bilaspur.</p> <p>In view of the above fact and also the statement made by counsel for the petitioner herein that the petitioner herein is ready to bear all the traveling expenses of Dr. Satish Kumar Jain from Delhi to Durg and back, I am of the opinion that the order must be quashed.</p> <p>In the result, the writ petition is allowed. The order impugned is hereby quashed subject to the condition that the petitioner herein will bear the expenses, which are to be incurred by the respondent herein for traveling from Delhi to Durg and back as well as the expenses to be incurred for his stay and food.</p> <p>Counsel for the respondent appearing before the Rent Controlling Authority, Durg to submit an application indicating the expenses, which are to be borne by the respondent for traveling, stay and food. The Rent Controlling Authority shall decide and direct the petitioner herein to deposit those expenses and only thereafter, the respondent and his witnesses be summoned and the petitioner herein be also permitted to cross-examine them.</p> <p>Consequently, M.(W.)P. No.3814/05 &amp; I.A.No.8422/05 stands disposed of.</p> <p>Certified copy as per rules.</p>	<p>Sd/- L.C. Bhadoo Judge</p>

6.10.05

Roshan