

R.R. No. 3669-108
Presented by Shri. Alok Baidya
Dated 15/12/08

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**IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR**

Division Bench

FIRST APPEAL NO. 11 OF 2008

**FIRST APPEAL UNDER SECTION 96 OF THE CODE OF CIVIL
PROCEDURE, 1908**

**Appellant
Defendant**

State of Chhattisgarh through
the Collector, Distt. Bastar,
Jagdalpur

Versus

**Respondent
Plaintiff**

Ramsurat Singh, S/o Late Mohan
Singh, aged 60 years, R/o Bus
Stand, Kondagaon, Distt. Bastar
(Chhattisgarh)

(Arising out of the Judgment and Decree passed by the Court of District Judge, Bastar, Jagdalpur (presided over by Shri L.S. Tekam), in Civil Suit No. 1-B/2006, Ram Surat Singh Vs. State of Chhattisgarh on 08/07/2008 whereby the Learned Trial Court has decreed the suit of the plaintiff for recovery of money of Rs. 21,09,596/- and has passed the decree in favour of the plaintiff/respondent herein directing that the defendant/appellant herein is not entitled for recovery for recovery of Rs. 21,09,596/- and is also granted interest @ 6% per year)

VALUATION OF THE SUIT RS. 21,09,596/-

COURT FEE PAID RS. 1,23,098/-

VALUATION OF THIS APPEAL 21,09,596/-

COURT FEE RS. 1,23,098/-

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH:

Coram: HON'BLE MR.T.P.SHARMA &
HON'BLE MR.I. S. UBOWEJA, JJ.

First Appeal No. 11 of 2009

APPELLANT
DEFENDANT

State of Chhattisgarh

Versus

RESPONDENT
PLAINTIFF

Ramsurat Singh

(FIRST APPEAL UNDER SECTION 96 OF THE CODE OF CIVIL
PROCEDURE, 1908)

Appearance :-

Mr. R.K. Mishra, Deputy Advocate General for the
appellant/State.

Mr. Vikarm Dixit, counsel for the respondent.

ORDER

(22.12.2014)

T.P.Sharma, J.:-

1. By this appeal under Section 96 of the Code of Civil Procedure, 1908 (for short 'the Act'), the appellant has challenged the legality and propriety of the judgment and decree dated 08.07.2008 passed by the District Judge, Bastar at Jagdalpur, in Civil Suit No.1-B/2006, whereby the trial Court has decreed the suit for recovery of Rs.21,09,596/- against present appellant.
2. As per plaint allegation, one Sports Officer entered into an agreement with Shiromani Decorator, Kondagaon for supply of tent articles and food arrangement. On the basis of which, Ex.P/4 was issued on 02.01.2002. In compliance of order (Ex.P/4), the respondent has supplied the articles and made arrangements to the tune of Rs. 27,43,089/-, out of which the appellant has paid Rs. 6,33,493/-, but the appellant has failed to pay remaining amount of Rs. 21,09,596/-. Notice under Section 80 of the Code of Civil Procedure was given to the

appellant. Statement for recovery of Rs.21,09,596/- was filed before the trial Court. 112

3. By filing written statement, respondent has denied the adverse allegation. Respondent has not admitted the charges levelled against him.
4. After providing opportunity of hearing to the parties, the trial Court decreed the suit.
5. We have heard learned counsel for the parties, judgment & decree impugned and record of the Court below perused. After passing of decree, the appellant has further paid Rs.13,23,700/- to the respondent.
6. Learned Dy. Advocate General for the appellant/State submits that in absence of definite evidence and documents relating to supply and arrangement, by decreeing the suit, the trial Court has committed an illegality. He further submits that as per paras 10 and 11 of evidence of respondent Shiromani Decoration, this is not registered institution owned by three persons namely Mahesh Kumar Singh, Suresh Kumar Singh and respondent, but respondent alone has filed the suit, therefore, trial Court ought to have dismissed the suit on the ground of non rejoinder of necessary party.
7. On the other hand, learned counsel for the respondent opposed the appeal and submitted that on the basis of evidence and fact that appellant has failed to adduce evidence, the trial Court has rightly decreed the suit.
8. We have perused the ocular and documentary evidence.
9. In the light of payment of amount to some extent, para 10 of evidence of respondent Shiromani Decoration, absence of documentary evidence relating to supply of food and other arrangement, it would not be possible to affirm the judgment and decree impugned. In the light of partial admission by the appellant, it would also not be possible to dismiss the appeal, but it would be appropriate to remit the case to the trial Court for providing opportunity to the parties, to take appropriate steps in the light



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of para 10 of evidence of respondent and to adduce evidence to prove the case.

10. Consequently, the appeal deserves to be allowed and is hereby allowed.

The judgment and decree passed by the trial Court is set-aside. The case is remitted to the concerned trial Court for deciding the case afresh after providing opportunity to take appropriate steps in the light of para 10 of evidence of respondent and to provide opportunity to both the parties to adduce documentary evidence. It is made clear that respondent is a caterer and co-owner of tent house and permission to file the suit as indigent person has been given by the trial Court, which also requires reconsideration.

11. Parties shall remain in attendance before the concerned trial Court on 24.02.2015. The appellant is not entitled to recover the amount paid to the respondent till the decision of the suit by the trial Court.

12. No order asto costs.

Vijay

**Sd/-
T.P. Sharma
Judge**

**Sd/-
Inder Singh Uboweja
Judge**