

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 48 of 2006

Amarnath Tyagi

---- Appellant

Versus

Narayan Prasad Agrawal & Anr.

---- Respondents

Shri Pramod Verma, senior counsel along with Shri Sumit Verma, counsel for the appellant/s.
Shri Ankur Agrawal, counsel for the respondents.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

26/11/2015

Heard on admission.

Learned senior counsel argued that the Courts below have committed gross illegality and perversity in holding that the respondent / plaintiff is entitled to decree of eviction under the provisions of Section 12 (1) (a) and 12 (1) (c) of the M.P. Accommodation Control Act, 1961(for short ' the Act of 1961') on the ground of default of payment of rent and creating nuisance.

2. Learned senior counsel argued that the defence of the appellant was illegally struck off, even though no case under Section 13 (6) of the Act of 1961 was made out. This ground was taken in appeal but the learned lower Appellate Court did not appreciate this ground. He submits that the Courts below, without recording finding with regard to proof of ingredients of Section 12 (1) (a) of the Act of 1961, committed illegality in granting decree of eviction on the ground of default of payment of rent. Learned senior counsel argued that the plaintiff has failed to prove that the appellant has failed to pay rent @ Rs.100/- after the order of fixation of rent by the Trial Court.

Unless, the default in the manner contemplated under the law is held proved, no decree of eviction for default of payment of rent could be passed under Section 12 (1) (a) of the Act of 1961. Learned senior counsel further argued that in so far as eviction on the ground of creating nuisance and acting contrary to the interest of the land lord is concerned, plaintiff has failed to prove that the defendant created any such nuisance. Specific plea of the defendant is that the vacant possession of the building was allowed to be used by other persons with specific permission of the plaintiff, which has been completely ignored by the Courts below.

3. Both the Courts below have recorded concurrent finding of fact with regard to the ground of eviction of under Section 12 (1) (a) and Section 12 (1) (c) of the Act of 1961. The Courts below have recorded that even though the Trial Court passed an order on 17/12/84 for depositing rent @ 100/- per month and depositing the arrears of rent, the defendant failed to comply with the order and did not deposit the rent as directed by the Court. For this reason, defendant was struck off as provided under the provisions of Section 13 (6) of the Act of 1961. This order was challenged by filing Revision in the High Court and the Revision was also dismissed by the High Court vide order dated 24/06/1997 passed in Civil Revision No.842/1997. There is specific finding of fact that despite having been granted benefit of Section 13 of the Act of 1961, the defendant failed to pay the rent and therefore, not entitled to any protection.

4. In view of the above, it is not necessary for this Court to examine the other grounds even for argument's sake, once it is held that decree under Section 12 1 (a) of the Act of 1961 is unassailable. No substantial question of law can be said to be involved warranting interference by this Court. The appeal is therefore dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge