

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

First Appeal No.353 of 2000

1. Radheyshyam Gupta, S/o Sitaram Gupta, aged about 52 years.
2. Gosai, S/o Kanhai, aged about 39 years.
3. Gouri Devi, W/o late Mukundlal Vanik, aged about 50 years.
4. Ram Naresh Giri, S/o Raghav Giri, aged about 50 years.

All R/o Deviganj Road, Ambikapur, District Sarguja, MP (now CG).

(Plaintiffs)
---- Appellants

Versus

1. Janpad Panchayat, Ambikapur, Through the Chief Executive Officer, Janpad Panchayat, District Sarguja, MP (now CG).
(Defendant)
2. Arun Kumar Soni, S/o Ram Lagan Soni, aged about 40 years, R/o Deviganj Road, Ambikapur, District Sarguja, MP (now CG).
(Pltf. No.5)
---- Respondents

For Appellants: Mr. Shakti Raj Sinha, Advocate.
For Respondent No.1: Mr. Alok Bakshi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

18/10/2016

1. Six plaintiffs instituted a suit for permanent injunction stating inter alia that Janpad Panchayat, Ambikapur is owner of the suit land and let out the same to each of the six plaintiffs for carrying on their business of small shops for the years 1967-68 and 1970-71, and defendant Janpad Panchayat is trying to dispossess them

forcefully as the notice dated 4-1-1992 has been served to vacate the suit land within 24 hours otherwise, the suit accommodation will be got evicted. The defendant filed its written statement and the trial Court on 27-8-1998 framed three issues that whether the plaintiffs are in peaceful possession and whether the defendant is trying to dispossess them without due procedure of law.

2. The suit was filed on 6-1-1992. The case was from time to time fixed for evidence of the plaintiffs and the defendant and ultimately, the case came up for evidence. On 25-4-2000, again the plaintiffs sought time to produce evidence and it was extended to 26-4-2000. On 26-4-2000, the plaintiffs did not adduce evidence. The evidence of the defendant was recorded and the civil suit was dismissed against which the first appeal has been preferred.
3. In the meanwhile, plaintiff No.6 Dulari Devi has died and suit has been dismissed as abated qua plaintiff No.6. Plaintiff No.5 Arun Kumar Soni has not preferred any appeal.
4. Mr. Shakti Raj Sinha, learned counsel appearing for the appellants / plaintiffs, submits that the trial Court has committed grave legal error in rejecting the application by order dated 26-4-2000 and in further granting time, as sufficient cause was not shown for not producing witnesses.
5. Whereas, Mr. Alok Bakshi, learned counsel appearing for

defendant Janpad Panchayat, Ambikapur, submits that the suit was filed on 6-1-1992 and sufficient time was allowed to the plaintiffs to adduce evidence. He further submits that on 25-4-2000, time was extended to 26-4-2000 and again the plaintiffs did not produce evidence then evidence of the defendant was recorded and suit was dismissed on merits.

6. I have heard learned counsel for the parties, considered their rival submissions and also gone through the record with utmost circumspection.
7. Point for consideration is, whether the trial Court is justified in dismissing the suit filed by the plaintiffs and is further justified in closing opportunity of evidence by order dated 26-4-2000.
8. The suit was filed on 6-1-1992. A careful perusal of the order sheets would show that from time to time, the case was fixed for evidence since 10-9-1998 and several opportunities were granted to the parties including the plaintiffs to lead evidence. Again the case was fixed on 25-4-2000 for evidence, the plaintiffs again sought time and the trial Court with great difficulty and recording detailed order though not inclined to grant time but any now adjourned the case for 26-4-2000 and again on 26-4-2000 though witnesses of the plaintiffs were present, but counsel of the plaintiffs did not examine them and sought time pursuant to which the trial Court on 26-4-2000 again at the request of counsel for the plaintiffs dismissed the application, but the case

was adjourned for 27-4-2000. On 27-4-2000, the plaintiffs and their witnesses failed to appear and opportunity to lead evidence was closed and on 28-4-2000, the suit was dismissed on merits.

9. From the aforesaid, it is quite apparent that sufficient time was granted to the plaintiffs to adduce evidence which they miserably failed though enough indulgence was shown by the trial Court to adduce evidence. Therefore, the trial Court has clearly recorded a finding that the period of lease has already expired and the plaintiffs have no right continue in the suit accommodation and decreed the suit.

10. In view of the aforesaid, since the plaintiffs have failed to establish that they are being dispossessed forcefully and they did not produce any oral or documentary evidence despite granting sufficient opportunity, I do not find any illegality in the order of the trial Court, same deserves to be and is accordingly affirmed. The first appeal is dismissed. No order as to cost(s).

11. Decree be drawn accordingly.

Sd/-
(Sanjay K. Agrawal)
Judge