

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.305 of 2016**

Tharumal, S/o late Udhomalo Motwani, aged about 75 years, R/o in front of Hotel Maan, above Deluxe Photo Studio, (though mentioned in impugned order as "above Dr.Sao's Dispensary"), Baraipara, Luchki Chowk Durg, Tahsil & District Durg (CG)

---Appellant

Versus

Anil Kumar Sao, S/o Late Nand Kishore Sao, aged about 70 years, R/o Motipara Durg, Tahsil & District Durg (CG)

---Respondent

For Appellant : Mr.Ashish Surana, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

20/07/2016

1. Plaintiff's suit for eviction from the suit premises on the ground of Section 12 (1) (e) of the Chhattisgarh Accommodation Control Act, 1961 (henceforth "Act of 1961") was dismissed by the First Civil Judge Class-II, Durg, in Civil Suit No.13A/2007.
2. On appeal being preferred by the plaintiff under Section 96 of the CPC, the First Appellate Court decreed the suit of the plaintiff holding that the plaintiff is required the suit accommodation *bonafide* for his own residence as he has no other alternative accommodation at Durg.
3. Feeling aggrieved against the judgment and decree dated 26.4.2016 passed by the 7th Additional District Judge, Durg, in Civil Appeal No.27A/2013 decreeing the suit for eviction under Section 12 (1) (e) of the Act of 1961, the present second appeal has been preferred by the appellant/defendant under Section 100 of the CPC.
4. Mr.Ashish Surana, learned counsel appearing for the appellant/defendant, would submit that finding of the First Appellate Court holding the need to be bonafide reversing the finding of the trial

Court is finding perverse on record and gave rise to substantial question of law.

5. I have heard learned counsel for the appellant and perused the judgment and decree impugned and records of the Courts below with utmost circumvention.

6. It appears that the First Appellate Court has clearly recorded the finding that the plaintiff is owner and landlord of the suit accommodation as he has no other suitable accommodation at Durg and he is required the suit accommodation for his own residence. Such a finding is based on fact. I do not find any perversity much less any substantial question of law for determination. Accordingly, I do not find any substantial question of law to be formulated for admission of this second appeal.

7. Accordingly, the second appeal being without substance is liable to be and is hereby dismissed at the stage of admission itself.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-