

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 289 of 2016

- Salik Ram Sinha S/o Nanda Ram Sinha, Aged About 53 Years R/o Sheetla Para, Near Ravan Bhata, Behind Harihar High School Village- Gobra, Gobra – Navapara, Tehsil - Abhanpur, District- Raipur (Chhattisgarh)(Defendant)

---- Appellant

Versus

- Sanjay Kumar Sahu S/o Shri Narayan Parasad Sahu, Aged About 32 Years R/o Sheetla Para, Ward No.13, Navapara (Rajim) Tehsil- Abhanpur, District- Raipur (Chhattisgarh)(Plaintiff)

---- Respondent

For the Appellant : Shri Kshitij Sharma, Advocate
For the Respondents : None

Hon'ble Shri Justice Sanjay K. Agrawal

C A V Order

13/07/2016

The plaintiff/respondent filed a suit for eviction under Section 12(1) (a) & (f) of the Chhattisgarh Accommodation Control Act, 1961 (for short 'the Act of 1961') stating inter-alia that he is the owner and land-lord of the suit accommodation and he has no reasonable suit accommodation for carrying on his business at Abhanpur and he required the suit accommodation bonafidely and he has not paid the arrears of rent since 12-02-2007, even after service of notice of two months. During the course of trial, the Trial Court by its order dated 19-07-2011 struck off the defence of appellant/tenant for non-payment of the rent under Section 13(6) of the Act of 1961.

2. The defence of the appellant/defendant was that he has purchased the suit accommodation vide Ex. D-1 from the erstwhile owner on 19-12-2006 and became the possession holder as a prospective purchaser.

During the trial, the defendant neither entered into witness box to support his case nor adduced any other evidence to support his plea. The Trial Court by its judgement dated 30-08-2012, decreed the suit on the ground of Sections 12 (1) (a) and 12(1)(f) of the Act of 1961.

3. Feeling aggrieved against the judgement and decree, the tenant preferred first appeal before the First Appellate Court. The first Appellate Court also dismissed the appeal by its judgement and decree dated 15-03-2016 against which this Second Appeal has been preferred under Section 100 of the Code of Civil Procedure (for short 'the CPC').

4. Learned counsel for the appellant/defendant would submit that learned both the Courts below have committed illegality in holding that the plaintiff is land-lord and owner of the suit premises. It ought to have seen that the defendant has entered into an agreement to sale with the erstwhile owner of suit accommodation Rajendra Kumar Verma and, therefore, he being the perspective purchaser, the findings recorded by both the Courts below holding the plaintiff to be the land-lord and owner of the suit premises is unsustainable and gives rise to substantial question of law for admission of appeal.

5. Heard learned counsel for the appellant and perused the records of the Courts below.

6. Trial Court has decreed the suit holding that plaintiff is land-lord and owner of suit accommodation and defendant is his tenant and suit accommodation is required bonafidely for non-residential purpose as he has no other reasonably alternative accommodation in his possession

for commencing business. The trial Court has further recorded a finding that defendant did not adduce any evidence in support of his plea by entering into witness box to establish that he has entered into an agreement with the erstwhile owner Shri Rajendra Verma and that agreement (Ex. D-1) will not change the status as tenant of plaintiff/land lord. Not only this, defendant/tenant's defence was struck off by the trial Court for non-payment of rent under Section 13(6) of the Act of 1961 and decreed the suit on the ground of 12(1) (1) & (f) of the Act of 1961.

7. On appeal being preferred, the first appellate Court dismissed the appeal of defendant affirming the judgement of trial Court.

8. The defendant has failed to adduce evidence to prove that he is in possession of the suit accommodation in part performance of agreement (Ex. D-1) as he has not entered into witness box.

9. The concurrent finding recorded by two Courts below holding plaintiff to be the land lord and owner of the suit accommodation and further holding his need to be bonafide and he has no other suitable alternative accommodation in the city of Abhanpur is a pure finding of fact based on evidence available on record, it is neither perverse nor contrary to record, no substantial question of law is involved for admission of this appeal. The appeal deserves to be and is hereby dismissed summarily. No costs.

Sd/-
(Sanjay K. Agrawal)
JUDGE