

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 11-7-2018

Judgment delivered on 24-7-2018

FA No. 303 of 2015

1. Punjab National Bank, Head Office 07, Bhikhaji Cama Place, New Delhi, Represented Through Genreal Manager, Delhi
2. Punjab National Bank Branch Seoni Champa, Represented Through Branch Manager, P. N. B. Seoni, Champa, District Janjgir Champa Chhattisgarh.....Defendants

---- Appellants

Versus

1. Ajay Kumar S/o Late Ramgopal, Aged About 45 Years Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh, Chhattisgarh
2. Smt. Pushpalata D/o Late Ramgopal, Aged About 50 Years Through General Power Of Attorney Holder Ajay Kumar, Vijay Kumar, Sanjay Kumar And Rajesh Kumar Respectively, All S/o Late Ramgopal, R/o Champa, District Janjgir Champa Chhattisgarh Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
3. Smt. Premlata D/o Late Ramgopal, Aged About 56 Years Through General Power Of Attorney Holder Ajay Kumar, Vijay Kumar, Sanjay Kumar And Rajesh Kumar Respectively, All S/o Late Ramgopal, R/o Champa, District Janjgir Champa Chhattisgarh Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
4. Smt. Kusumlata D/o Late Ramgopal, Aged About 49 Years Through General Power Of Attorney Holder Ajay Kumar, Vijay Kumar, Sanjay Kumar And Rajesh Kumar Respectively, All S/o Late Ramgopal, R/o Champa, District Janjgir Champa Chhattisgarh Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

5. Smt. Manjulata D/o Late Ramgopal, Aged About 47 Years Through General Power Of Attorney Holder Ajay Kumar, Vijay Kumar, Sanjay Kumar And Rajesh Kumar Respectively, All S/o Late Ramgopal, R/o Champa, District Janjgir Champa Chhattisgarh Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
6. Smt. Hemlata D/o Late Ramgopal, Aged About 43 Years Through General Power Of Attorney Holder Ajay Kumar, Vijay Kumar, Sanjay Kumar And Rajesh Kumar Respectively, All S/o Late Ramgopal, R/o Champa, District Janjgir Champa Chhattisgarh Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
7. Vijay Kumar S/o Late Ramgopal, Aged About 58 Years Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
8. Sanjay Kumar S/o Late Ramgopal, Aged About 42 Years Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh , District : Janjgir-Champa, Chhattisgarh
9. Rajesh Kumar S/o Late Ramgopal, Aged About 40 Years Caste Agrawal Bansal, R/o Agrasen Chowk, Champa, Tahsil Champa, District Janjgir Champa Chhattisgarh.....Plaintiffs, District : Janjgir-Champa, Chhattisgarh

---- Respondents

For appellants	:	Mr. Sachin Singh Rajput, Advocate.
For respondents	:	None

SB: Hon'ble Shri Justice Ram Prasanna Sharma

CAV JUDGMENT

1. The appellant has preferred this appeal under Section 96 of Code of Civil Procedure 1908 against the judgment and decree dated 27-8-2015 passed by the Additional District Judge, Janjgir, District Janjgir-Champa (CG) in Civil Suit No. 03-A/2015 wherein the said court passed the decree of eviction of rented premises against the appellants and further decreed for payment of Rs. 15,000/- per month till vacation of the suit premises.
2. In the present case, said premise is situated at Khasra No. 253/2 area 1910 sq, situated at village Sivnik, Tashil Champa Janjgir, District Janjgir-Champa. Tenancy was initiated on 2-1-2007 and the period of tenancy was five years which expired on 1-1-2012. As the tenancy premise is vacated by the appellants, the only question for consideration in the present appeal is whether the decree for paying Rs.15,000/- per month as rent from 27-8-2015 is just and legal.
3. It is contended on behalf of the appellants that there is extension clause in rent agreement, therefore, the trial Court ought to have granted agreed rent which Rs.9550/- per month and granting Rs.15000/- is not proper.
4. I have heard learned counsel for the appellants and perused the record in which judgment and decree passed by the court below.

5. In view of this court, tenancy period can be extended by consent of both sides, but that is not done in the present case. Since tenancy is not extended and tenant does not wish to continue the tenancy. As per terms and conditions of the agreement, tenancy was terminated on 1-1-2012. Admittedly, Savitri Bai is the landlord of the suit premises and the respondents are legal representatives of deceased Savitri Bai and now they are landlords due to operation of law. Tenancy was initiated in the month of January, 2007 and even after termination of lease agreement the appellants have not vacated the premises, therefore, they were not legal tenants after lease period. The trial Court awarded penalty rent from the month of August, 2015 i.e., after eight years and eight months of the original tenancy by increasing about 50% after long period of more than eight years. Penalty imposed by the trial Court cannot be termed as unjust or improper as appellants were under obligation to vacate the premises on 1-1-2012, but they did not vacate the same.
6. Considering all the facts and the material available on record, this court is of the view that the finding arrived at by the trial Court is based on proper marshalling of evidence and the same is not liable to be interfered while invoking jurisdiction of this appeal.

7. Accordingly, the decree is passed against the appellants/plaintiffs and in favour of respondents on the following terms and conditions.

- I) The appeal is dismissed with cost.
- ii) Parties to bear their own cost.
- iii) Counsel fee, if certified be calculated as per certificate or as per Schedule whichever is less.
- iv) A decree be drawn accordingly.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju