

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 27-2-2019

Judgment delivered on 29-03-2019

FA No. 84 of 2005

1. Managing Director M.P.Rajya Beej Avam Farm Vikas Nigam,
36 Beej Bhawan, Mother Teresa Road, Arera Hils, Bhopal,
MP (462016).
2. Regional Manager, M.P.Rajya Beej Avam Farm Vikas Nigam,
Sunder Nagar, Raipur (CG).
3. Prakriya Prabhari, M.P.Rajya Beej Avam Farm Vikas Nigam,,
Dharampure road, Jora, Raipur (CG)/

---- Appellants

Versus

- Kamal Narayan Verma, aged about 33 years, s/o. Shri
Ghanshyam Prasad Verma, resident of village Siltara Tahsil
and Dist. Raipur (CG).

---- Respondent

For appellants : Mr. Shashi Bhushan Tiwari, Advocate

For respondent : Mr. Raja Sharma, Advocate.

SB: Hon'ble Shri Justice Ram Prasanna Sharma

CAV JUDGMENT

1) This appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against the judgment/decreed dated 15-12-2004 passed by 13th Additional District Judge (FTC), Raipur (CG) in Civil Suit No. 8-B/2004 wherein the said court decreed the suit filed by respondent No.1/plaintiff for recovery of arrears of rent to the tune of Rs.1,73,040/- with interest.

2.) As per version of plaint, Godown No.2 of respondent is situated at village Siltara, District Raipur and same was taken on rent by the appellants for a period of 35 months. It is submitted that premise was let for a period between January 1998 to August 1998 for eight months, then January 1999 to September, 1999 for nine months and from December, 1999 to May 2001 for a period of 18 months, total period was 35 months . It is alleged that rent was to be fixed by the Rent Controlling Authority who fixed the rent @ Rs.10,944/- per month while appellants/defendants paid rent @ Rs.5616/- per month that is why suit was filed for arrears of rent which was decreed by the trial Court.

3) Learned counsel for the appellants would submit as under:

- i) The trial Court erred in holding that the appellants/defendants were obliged to comply with the certificate (Ex.P/1) issued by the Rent Controlling Authority.
- ii) Rent Controlling Authority has no authority to fix reasonable rent as the said authority has no jurisdiction in the area in view of Section 1 (3) of the Act to fix rent between the parties and further without an application from the appellants and without giving any opportunity of being heard.
- iii) It is not a case of fixation of standard rent

and reasonable rent was fixed by the Collector under finance Code, therefore, finding of the trial court is not sustainable.

iv) The appellant is a statutory Corporation and the subordinate officers have no authority to settle or fix rent .

v) The suit for rent for period upto April 1999 is clearly barred by limitation, therefore, finding of the trial Court is liable to be set aside.

4) On the other hand, learned counsel for the respondents would submit that the finding of the trial court is based on proper marshalling of the evidence which does not call for any interference by this court while invoking jurisdiction of the appeal,.

5) I have heard learned counsel for the parties and perused the record in which judgment and decree has been passed.

6) From the oral evidence evidence adduced by both sides and from the documents (Ex.P/5) which is written by the Regional Manager to Managing Director of the appellant Corporation, it is clear that the premises in question was hired on the ground that rent which shall be determined by the Rent Controlling Authority is payable and the rent fixed by the Rent Controlling Authority is Rs.10,944/- per month. The certificate of Rent Controlling

Authority is Ex.P/1 and as per the said authority monthly rent was fixed to Rs.10,944/-. From the documents of the appellants' side Ex.P/5, it is clear that authority of the appellant/Corporation admitted regarding fixation of rent by the Rent Controlling Authority and on that ground the premises in question was let to rent. When it was agreed by both sides that Rent Controlling Authority will determine the rent, then the appellant are stopped from saying that no rent is leviable as per fixation of Rent Controlling Authority. The trial Court has discussed the entire evidence and recorded finding that decree should be passed in favour of respondent.

7. Learned counsel for the appellants would further submit that the arrears of rent upto April 1999 is barred by limitation because suit was filed before the trial Court on 9-5-2002.

In view of this court, the Regional Manager has acknowledged the dues right from the month of January, 1998 to August, 1998 and notice was served to appellants by the respondent as per Ex.P/6 on 27-12-2001 for payment of dues and when payment is not made then suit was filed before the trial court on 7-5-2001. Looking to the documents (Exs.P/5 & P/6), it is clear that dues were acknowledged and not paid after 31-5-1999, therefore, limitation runs from 31-5-1999 and 27-12-2001 and suit

was filed within three years of acknowledgement and refusal, therefore, suit is not barred by limitation.

8. Finding of the trial court is based on oral and documentary evidence adduced by both sides on record and same is not based on irrelevant or extraneous material. After re-assessing the entire evidence, this court has no reason to substitute contrary finding.

9) As a fallout and consequence of the aforesaid discussion, the appeal is held to be devoid of merit and same is liable to be dismissed. Accordingly, decree is passed in favour of respondent and against the appellants as under:

- (i) The appeal is dismissed with cost.
- (ii) Appellants to bear the cost of respondent through out.
- (iii) Pleader's fee., if certified, be calculated as per Schedule or as per certificate whichever is less.
- (iv) A decree be drawn up accordingly.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju