

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 209 of 2004****Reserved on : 11.01.2019****Delivered on : 30.01.2019**

Shri Bhagwan Shivrinarayan Math Mandir Trust, Shivrinarayan, Through Sarvarakar and Managing Trustee, Rajeshree Mahant Ram Sunder Das, Guru Late Shree Rajeshree Mahant Vaishnav Das, Shivrinarayan Math, District- Janjgir-Champa (C.G.)

---- Appellant**Versus**

Smt. Vinodanibai, W/o Balaram, aged 48 years, R/o Village Shivrinarayan, District- Janjgir-Champa (C.G.)

---- Respondent

For Appellant	:	Mr. H.B. Agrawal, Senior Advocate with Mrs. Meera Jaiswal, Advocate.
For Respondent	:	Mr. Shantanu Awasthi, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV JUDGMENT**

1. This first appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against judgment/ decree dated 09.12.2004 passed by Third Additional Sessions Judge (FTC), Janjgir-Champa (C.G.) in Civil Suit No. 14'A'/2004, wherein the said court dismissed the suit filed by the appellant/ land lord for eviction of respondent (tenant) from tenanted premises mentioned in Schedule-A of the plaint.
2. The appellant/ plaintiff is managed by a trust and there is procedure of working of the trust and respondent is tenant of the plaintiff on a monthly rate of Rs. 5000/-. The respondent has not paid the rent

regularly and encroached certain land, therefore, a notice was served on her dated 19th January, 2002 and her tenancy was terminated from 28th February, 2002. Notice was issued as per Ex.P/4 and it was sent through registered post as per Ex.P/5 & P/6. Even then, the respondent did not pay the arrears of rent that is why the suit for eviction was filed.

3. Learned counsel for the appellant/ plaintiff submits as under :-

(i) The respondent has neither paid nor tendered the whole amount of arrears of rent legally recoverable from her, therefore, she is liable to be evicted.

(ii) The suit is filed by Managing Trustee Rajeshree Mahant Ram Sunder Das, who is authorized to file the suit, therefore, finding arrived by the trial court that authorization for filing the suit is required, is not sustainable.

4. On the other hand, learned counsel for the respondent submits that the finding arrived at by the trial court is based on evidence and the same is not liable to be disturbed.

5. From order dated 28.01.2003 of Registrar, Public Trust, Jangir-Champa (Ex.P/3), it is established that Mahant Ram Sunder Das is managing trustee of the plaintiff trust and he has all the right to file suit on behalf of the plaintiff. No document is filed in rebuttal of Ex.P/3, therefore, no other authorization letter was required in filing the suit by Mahant Ram Sunder Das.

6. Looking to the documentary evidence placed on record, finding arrived

at by the trial court that some other authorization letter was required for filing the suit, is not sustainable and the same is hereby reversed. It is declared that Mahant Ram Sunder Das is authorized to file the present suit on behalf of the plaintiff trustee.

7. From evidence of Mahant Ram Sunder Das (PW-1), notice Ex.P/4, receipt of postal department Ex.P/5 & P/6, it is established that the respondent has not paid rent regularly that is why notice was issued to her to pay the arrears of rent and vacate the premises and her tenancy was terminated on 28th February, 2002, but she did not vacate the premise and did not pay the arrears of rent. From evidence of the respondent, it is not established that she has paid the arrears of rent and has not tendered the same.
8. As per Section 12(1)(a) of the Chhattisgarh Land Accommodation Control Act, 1961, if tenant has neither paid nor tendered whole amount of arrears of rent legally recoverable from her after notice within two months, the ground for eviction is available to the land lord. In last 14 years of litigation, the respondent did not bother to pay any sum against arrears of rent, therefore, she is liable to be evicted from the tenanted premises in question. Argument advanced on behalf of the respondent is not acceptable. In view of this Court, finding of the trial court is not sustainable and the same is hereby reversed.
9. Accordingly, the judgment/decree passed by the trial court is set aside allowing the appeal. The decree is passed in favour of the appellant and against the respondent on the following terms and conditions:-
 - (i) The appeal is allowed. The respondent to handover vacate

possession of the tenanted premises situated at Village- Mahantpara Shivrinarayan, P.H. No. 14, Revenue Circle & Tahsil- Navagarh, District- Janjgir-Champa as specified in Schedule-A of the plaint within two months. Schedule-A shall be part and partial of the decree.

- (iii) Parties to bear their own costs.
- (iv) Pleaders' fee, if certified be calculated as per certificate or as per schedule whichever is less.
- (v) A decree be drawn accordingly.

Sd/-
(Ram Prasanna Sharma)
Judge