

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 215 of 2008**

1. Wahida Begam, Aged 52 years, Wife of Late Shri Istaak Ali.
2. Farzana Begam, Aged 36 years, Daughter of Late Shri Istaak Ali.
3. Syed Israr Ali, Aged 34 years, Son of Late Shri Istaak Ali.
4. Syed Ibrar Ali, Aged 32 years, Son of Late Shri Istaak Ali.
5. Syed Istifak Ali, Aged 30 years, Son of Late Shri Istaak Ali.

All are residents of Rajendra Nagar, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

--- Appellants/Lrs. Of the Plaintiff

Versus

1. Municipal Corporation, Bilaspur, Through the Commissioner, Municipal Corporation, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.
2. The Commissioner, Municipal Corporation, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

---- Respondents/Defendants

For Appellant/Plaintiff : Mr. Somnath Verma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

29/08/2019

1. Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by the legal representatives of the original plaintiff – Istaak Ali under Section 100 of the CPC.

2. Mr. Somnath Verma, learned counsel appearing for the legal representatives of the plaintiff would submit that both the Courts below are absolutely unjustified in dismissing the civil suit filed by the plaintiff for declaring the order of termination of lease dated 19/20.02.1996 as illegal and ineffective by recording a finding which is perverse and contrary to record and gives rise to substantial question of law for determination in this second appeal.
3. Original Plaintiff – Istaak Ali filed a civil suit for declaring that order of termination of lease dated 19/20.02.1996 is illegal and ineffective, in which the defendants i.e. the Municipal Corporation filed a reply stating that lease of the suit shop has been terminated strictly in accordance with law.
4. Learned trial Court, after appreciating the oral and documentary evidence on record, came to the conclusion that plaintiff has failed to deposit the rent even after he was served with lawful notice by the Municipal Corporation (Exhibits P/55 and P/56), therefore, lease of the suit shop has rightly been cancelled, which has been upheld by the first appellate Court in the civil appeal preferred by the legal representatives of the plaintiff.
5. The concurrent finding recorded by both the Courts below that lease of the suit shop has been terminated by the Municipal Corporation strictly in accordance with law is a finding of fact based on evidence available on record which is neither perverse nor contrary to record and does not give rise to any substantial question of law for determination in this second appeal.

6. The second appeal deserves to be and is accordingly dismissed *in limine* without notice to the other side. No order as to cost(s).

**Sd/-
(Sanjay K. Agrawal)
Judge**

Harneet