

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No. 57 of 2019**

Sheikh Tajim Hussain, S/o Sheikh Hussain, aged 45 years, Occupation Business,
R/o Madhubanpara and Ganja Chowk, Raigarh, Tahsil & District Raigarh (C.G.)

----Appellant/Defendant

Versus

Mohd. Hussain, S/o Late Tahar Ali, aged 50 years, Occupation Business, R/o Ganja
Chowk, near Jama Masjid, Raigarh, Tahsil & District Raigarh (C.G.)

---- Respondent/Plaintiff.

For Appellant	: Shri Sourabh Sharma, Advocate.
For Respondents	: None as appeal yet not admitted.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

15/02/2019

1. Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by defendant/tenant under Section 100 of the Code of Civil Procedure, 1908.
2. The civil suit filed by the plaintiff/landlord under Section 12(1)(f) of the M.P./C.G. Accommodation Control Act, 1961 (henceforth "Act, 1961") was decreed by the trial Court. The first appeal preferred there-against was dismissed by the First appellate Court affirming the judgment & decree of the trial Court.
3. Shri Sourabh Sharma, learned counsel appearing for the appellant/defendant would submit that both the courts below have concurrently erred in holding that respondent/plaintiff has proved the ground under Section 12(1)(f) of the Act of 1961 as the plaintiff has vacant alternative suitable accommodation in his possession in the township of

Raipur for his non-residential purposes and, therefore, the findings recorded by both courts below are perverse and contrary to the record and that give rise to substantial question of law for determination.

4. The respondent/plaintiff has clearly pleaded in the plaint and established that he has no reasonably suitable alternative non-residential accommodation in his possession in the township of Raipur, which the defendant/appellant did not controvert by raising specific plea that plaintiff has other vacant alternative suitable accommodation in his possession in the township of Raipur for his bonafide need. Both the courts below have concurrently held that the plaintiff has established the ground under Section 12(1)(f) of the Act of 1961 and he has no other reasonable suitable accommodation in the township of Raipur and the suit accommodation let out for non-residential purposes is required by the plaintiff for his *bonafide* need.

5. The Supreme Court in the matter of **Ram Prasad Rajak Vs. Nand Kumar & Bros. and another**¹ has held that bonafide requirement of landlord does not give rise to any substantial question of law and it has to be decided on appreciation of evidence and subsequently followed in the matter of **Ragavendra Kumar Vs. Firm Prem Machinery & Co.**²

6. The finding recorded by both the courts below *qua* the bonafide need of plaintiff is a finding of fact based on material available on record and I do not find it either perverse or contrary to record and no question of law much less substantial question of law is involved in this appeal.

7. Their Lordships of the Supreme Court have held that it is not permissible for the

1 (1998) 6 SCC 748

2 (2000) 1 SCC 679

High Court to interfere with the concurrent finding of fact recorded by two courts below unless findings are perverse and contrary to law. {See : **Aftaruddin (dead) represented through Legal representatives Vs. Ram Krishna Dutta alias Babul Datta and others**³ & **Raj Kumari and another Vs. Ravinder Kumar (deceased) through legal representatives & others**⁴ }

8. Accordingly, the second appeal, being devoid of merit, is liable to be and is hereby dismissed in *limine* without noticing to the other side.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

³ (2018) 11 SCC 77

⁴ (2018) 12 SCC 681

