

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.296 of 2005

Bhagwati Prasad, S/o Shri Kashi Prasad, Dhobi, Madhu Mittal Chowk,
R/o Shanti Nagar, Raipur.

(Defendant)
---- Appellant

Versus

1. Girish Kumar Agarwal, aged about 49 years, S/o Late Bhawani Shankar Agarwal.
2. Harish Kumar Agarwal, S/o Late Bhawani Prasad Agarwal, aged about 47 years.

No.1 & 2 are residents of Gram Atarmara, Tehsil Gariyabandh, District Raipur.

3. Umesh Kumar Agarwal, S/o Late Bhawani Shankar Agarwal, aged about 35 years, R/o Gram Mohandi, District Raipur.

(Plaintiffs)
---- Respondents

For Appellant: Mr. B.P. Sharma, Mr. Raza Ali and Mr. Yogendra Singh
Rajput, Advocates.

For Respondents: None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

22/08/2019

1. Heard on admission and formulation of substantial question of law for determination in the second appeal preferred by the defendant.
2. Learned counsel appearing for the appellant herein/defendant, would submit that the concurrent finding recorded by both the Courts below that the suit accommodation is required bona fide and the plaintiffs have no other reasonably suitable accommodation at Raipur for starting / opening their business is a perverse finding and liable to be set aside.
3. I have considered the submission of learned counsel for the appellant

herein / defendant and went through the record with utmost circumspection.

4. Three plaintiffs filed a suit for eviction of the defendant / tenant on the ground of Sections 12(1)(a) & 12(1)(f) of the Chhattisgarh Accommodation Control Act, 1961 (for short, 'the Act of 1961') alleging non-payment of rent and that the suit accommodation is required for opening / starting business at Raipur for which they have no alternative suitable accommodation at Raipur and they are staying at Village Atarmara, Tahsil Gariyaband and after death of their father Bhawani Shankar Agrawal, the defendant is their tenant for a monthly rent of ₹ 50/- which the defendant denied alleging that the plaintiffs are neither title holders nor landlords and there is no bona fide need for their non-residential purpose and they have alternative suitable accommodation.
5. The trial Court after appreciating oral and documentary evidence on record, decreed the suit finding that the plaintiffs are owners thereof and after death of Bhawani Shankar Agrawal, the defendant is their tenant and on the ground of Sections 12(1)(a) & 12(1)(f) of the Act of 1961, decreed the suit holding that the suit accommodation is required bona fidely under Section 12(1)(f) of the Act of 1961 and they have no other reasonably suitable accommodation at Raipur for starting / opening their business, as they are residing at Village Atarmara, Tahsil Gariyaband, which the first appellate Court has affirmed in the appeal carried out by the defendant / appellant herein.
6. Admittedly, the ground of arrears of rent has been found proved by both the Courts below and learned counsel for the appellant / defendant could not point out any perversity in the said finding. So, I do not find any perversity in the said finding.

7. The concurrent finding regarding bona fide need of the plaintiffs as projected is found established, as the plaintiffs are residents of Village Atarmara, Tahsil Gariyaband, whereas the suit accommodation is situated at Raipur and they projected the need of opening business at Raipur for which they have no other accommodation at Raipur which both the Courts have accepted that willingness and desire of the plaintiffs for starting and opening their business at a city like Raipur, which is capital of Chhattisgarh, is bona fide and natural and that has to be accepted being reasonable as well. Admittedly, they have no other alternative accommodation at Raipur and they are right in preferring to the State capital rather than a remote village of District Gariyaband which is a finding of fact based on evidence. Even otherwise, bona fide need is a pure question of fact recorded after appreciation of evidence available on record, which gives rise no substantial question of law for determination.
8. For the aforesaid reasons, this second appeal does not involve any substantial question of law for determination. The second appeal is liable to be and is hereby dismissed *in limine*. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge