

HIGH COURT OF CHHATTISGARH, BILASPUR
SA. No. 592 of 2018

Bratindra Nath Bagchi Bhattacharya (wrongly written as Batindra) S/o Late Shri Devendra Nath Bagachi, Aged About 60 Years R/o. House No. 36/98, Chhotapara, Near The House Of B.D. Mishra Advocate, Raipur, Tahsil And District Raipur Chhattisgarh.

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Versus

1. Mohd. Mehadi S/o Sultan Ali.
 2. Musmat Shabnam Jehara, W/o Mohammad Mehadi.
- Both are R/o. Bairanbazar, Raipur, Tahsil and District : Raipur, Chhattisgarh.

---Respondents

For Appellant	:	Shri Raghvendra Pradhan, Advocate.
For Respondents	:	None.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

14/01/2019

1. Heard on the question of admission of this second appeal preferred by defendant/appellant.
2. By the impugned judgment and decree, the First Appellate Court has dismissed the appeal preferred by defendant/appellant herein affirming the judgment and decree of the trial Court granting decree in favour of the plaintiffs/respondents herein under Section 12 (1) (c) and 12 (1) (e) of the Chhattisgarh Accommodation Control Act, 1961 (hereinafter called as 'the Act of 1961').
3. Learned counsel appearing for the appellant/defendant/tenant would submit that both the Courts below have concurrently erred in granting decree under Section 12 (1) (c) & Section 12 (1) (e) of the Act of 1961. He would further submit that relationship of the landlord & tenant between the plaintiffs & defendant is not established, as such this second appeal involves substantial question of law for determination.

4. The plaintiffs- Mohd Mehadi & Musmat Shabnam Jehra filed a suit for eviction based on the ground under section 12 (1) (a) (c) & (e) of the Act of 1961 against the original defendants that they have purchased the suit accommodation by registered sale-deed dated 24-10-1988 (Ex P-10 (c)) from Sabhiha Rehana and became the joint owner and Bhumiswami of said accommodation and at that time defendants ancestor-Shri H.N. Bhattacharya was staying in the suit accommodation at the rent of Rs. 17.25 per month and now defendants are staying as the legal representative. It was further pleaded that suit accommodation is required bona-fidely for the residential purpose of the plaintiffs and they have no other alternative suitable accommodation in the township of Raipur. Even after service of notice, defendant has not paid the arrears of rent and denied the plaintiffs' title, as such plaintiffs are entitled for ejectment & arrears of rent. The defendant denied the plaint allegation and stated that the plaintiffs are not entitled for decree of ejectment.
5. The trial Court on due appreciation of oral and documentary evidence available on record came to conclusion that the plaintiffs after purchase of suit accommodation vide Ex.P-10(c) served legal notice (Ex.P-5) to the defendants and as such plaintiffs are landlord & defendant No.1 is their tenant and relationship of landlord and tenant is established between the parties and also found established the ground under Section 12 (1) (c) & (e) of the Act of 1961. The said finding has been affirmed by the First Appellate Court in appeal preferred by defendant.
6. Both the Courts below have clearly held that relationship of landlord and tenant is established between the plaintiffs & defendant as after

the purchase by sale-deed (Ex.P-10 (c)), the plaintiffs have served legal notice to defendant No.1 (Ex.P-5), as such there is legal attornment of tenancy as such finding recorded is not perverse and contrary to the records.

7. The finding of two Courts below that suit accommodation is required for residential purpose of the plaintiffs and they have no other reasonably suitable accommodation for residential purpose in the township of Raipur is a pure & simple finding of fact based on evidence available on record. It cannot be held to be perverse giving rise to substantial question of law for determination. The decree of eviction under Section 12 (1) (c) on the ground of denial of landlord's title is also based on valid finding entered by the two Courts below, which has not been shown to be contrary to law.
8. In view of above-stated legal analysis, I do not find any substantial question of law involved in the second appeal for determination, it deserves to be and is accordingly dismissed leaving the parties to bear their own costs.

Sd /-

(Sanjay K. Agrawal)
Judge