

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 29 of 2019**

{Arising out of order dated 04.05.2018 passed by learned Single Judge in Writ Petition No. 6098 of 1998}

- Kirodimal Charity Trust, Raigarh, Through its Secretary, Sadar Bazar, Raigarh (Chhattisgarh)

---- Appellant**Versus**

1. State of Madhya Pradesh (now C.G.) through Principal Secretary, Government of M.P. (now C.G.), Department of Higher Education, Vallabh Bhopal (now Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, C.G.)
2. The Commissioner, Higher Education, Bhopal (now Raipur)
3. The Principal, Paluram Dhanania Arts & Commerce College, Raigarh.
4. The Collector, Raigarh.
5. Paluram Dhanania Memorial Samiti, Raigarh, Through its President.
6. Rent Controlling Authority-cum-Sub Divisional Officer, Raigarh (Chhattisgarh)
7. Ramakrishna Vivekanand Mission, Kirodimal Colony, Raigarh (Chhattisgarh)

---- Respondents

For Appellant	:	Shri Ashish Shrivastava, Advocate.
For Respondent Nos.1 to 6/State	:	Shri Vivek Sharma, Panel Lawyer.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****13.02.2019**

1. Heard the learned counsel for the Appellant and the learned Panel Lawyer for the State.
2. I.A. No.1 of 2019 is an application for condonation of delay of 174 day. For the reasons assigned in the said I.A., delay is condoned.

3. Appeal is directed against the order dated 04.05.2018 passed by the learned Single Judge in a writ application filed on behalf of the Appellant seeking quashing of a letter dated 09.06.1997 passed by the Deputy Collector, Raigarh where the claim by the Appellant for seeking rent of the disputed property as well as challenge thrown to Clause 7.3 and 7.4 of the agreement dated 01.10.1986 for a declaration for them to be void and inoperative coupled with the order dated 04.02.2004 passed by the Rent Controlling Authority, Raigarh where the property in question stands allotted to one Ramakrishna Vivekanand Mission, were under challenge in the writ application.
4. Taking the history of the dispute, the learned Single Judge refused to entertain the writ application and exercise his discretion under Article 226 of the Constitution of India primarily holding that it was a civil dispute between the parties and remedy thereof will lie before a Civil Court of competent jurisdiction.
5. We have also been through the impugned order of the learned Single Judge as also the records i.e. the paper-book of the writ application. The facts are contested. There is a long history behind the execution of the agreement and subsequent developments in relation to taking over the assets and liabilities etc. by State way back in the year 1986 itself. In these circumstances the remedy under Article 226 of the Constitution of India has rightly been rejected by the learned Single Judge. Dismissal of the writ or the appeal by us however, will not come in the way of the parties approaching a Civil Court of competent jurisdiction for appropriate declaration or relief.
6. Appeal has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge