

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.263 of 2010**

Alok Shrivastava, aged about 48 years, S/o. Ramshanker Shrivastava, By Occupation Baardana Business, R/o. Near Samta Hospital, Rajnandgaon (CG)

---- Appellant/Defendant**Versus**

1. Aditayanarayan aged about 30 years, S/o. Ghanshayam Mishra, R/o. Bharkapara., Rajnandgaon (CG)
2. Prakash Narayan, aged about 32 years, S/o. Ghanshayam Mishra, R/o. Bharkapara, Rajnandgaon (CG)

---- Respondents/Plaintiffs

For Appellant	:Shri Parag Kotecha, Advocate
For Respondents	: Shri Rakesh Thakur, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****15.9.2020.**

1. Proceedings of this matter have been taken up for admission through Video Conferencing.
2. Heard on admission and formulation of substantial question of law in this second appeal preferred by the defendant/tenant. The first appellate Court partly set aside the judgment and decree dated 11.8.2009 of the trial Court and decreed the suit of the plaintiff directing ejectment on only the ground of Section 12(1)(f) of the Chhattisgarh Accommodation Control Act, 1961 against which the second appeal has been preferred.
3. Learned counsel for the appellant/defendant submits that the

plaintiff has alternative suitable accommodation, i.e. multi storied building at village Bharkapara, Rajnandgaon and as such he has suitable alternative accommodation in which litigation chamber of plaintiff's son Prakash Narayan, Advocate can be opened and as such the first appellate Court is absolutely unjustified in decreeing the suit in favour of the plaintiff by recording a finding which is perverse to the record and the appeal involves substantial question of law for determination.

4. I have heard learned counsel for the appellant and perused the records of the Courts below.

5. The plaintiff filed a suit on the ground of Section 12(1)(a) and 12(1)(f) of the Chhattisgarh Accommodation Control Act, 1961 stating that suit accommodation is required bonafide for opening litigation office of his son Prakash Narayan, Advocate as he has no other alternative suitable accommodation in the town ship of Rajnandgaon and arrears of rent has also not been paid, therefore, decree under Section 12(1)(a) and 12(1)(f) of the Act be granted in their favour. The trial Court decreed the suit on the ground under Sections 12(1)(a) and 12(1)(f) of the Act but the first appellate Court set aside the decree under Section 12(1) (a) of the Act, but maintained the decree under Section 12(1)(f) of the Act. Submission made on behalf of the plaintiff that he has alternative accommodation at village Bharkapara, Rajnandgaon has been rejected by two Courts below holding that the property at Bharkapara is used by plaintiff and his family members for residential purpose and plaintiff No.2 Prakash Narayan,

being an Advocate, who has become major during the pendency of the suit wanted to open his own litigation office as Advocate for which he has no other alternative suitable accommodation except suit accommodation and affirmed the decree under Section 12(1)(f) of the Act on the ground of bonafide need. The findings of both the Courts below that the suit accommodation is required bonafide by plaintiff No.2 for opening litigation office as he is Advocate by profession and he has no other alternative suitable accommodation in the township of Rajnandgaon, is a finding of fact based on facts available on record which is neither perverse nor contrary to the record. The two Courts below have rightly rejected the plea and held that he has no other alternative suitable accommodation in his possession at Rajnandgaon for opening the office as Advocate as such the appeal does not involve any substantial question of law for determination. The demolition of the part of suit accommodation by State authorities for public purpose would not affect the ejectment decree.

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

Sd/-
(Sanjay K. Agrawal)
JUDGE