

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Second Appeal No.104 of 2009**

Smt.Prembati Goel W/o. Shri Bishandayal Goel Proprietor-
M/s. Prem Engineering Works Dharamkata-Khursipar, Bhilai
Lessee of plot No.106, 107, 116 & 117 In Light Industrial
Area, Bhilai Residing in No.-10, Mayfare Road (Calcutta)
Kolkata-19

---Appellant/Plaintiff**Versus**

- 1.The State of Chhattisgarh, Through Collector, Durg
(CG)
- 2.The Additional Director of Industries, Durg (CG)
- 3.The General Manager, District Industries Centre, Durg
(CG)
- 4.M/s. Nagpur Engineering Co.Pvt. Ltd. Light Industrial
Area, Bhilai

---Respondents/Defendants

For Appellant/Plaintiff :

Mr.Manoj Paranjape, Advocate

For Respondents No.1 to 3/State:

Mr.Rahul Jha, Government Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board**07/08/2020**

1. Proceedings of this matter have been taken-up
through video conferencing.
2. Heard this second appeal on admission and
formulation of substantial question of law preferred
by the appellant/plaintiff.
3. By the impugned judgment and decree, the first

appellate Court has dismissed the first appeal preferred by the appellant/plaintiff affirming the judgment and decree of the trial Court dismissing the suit.

4. Mr. Manoj Paranjape, counsel for the appellant/plaintiff, would submit that both the Courts below concurrently erred in holding that cancellation of lease deed by order dated 15.3.1983 passed by defendants No.1 to 3 was valid order of cancellation, by recording a finding which is perverse to record and the second appeal involves substantial question of law for determination, as such, it be admitted for hearing.
5. The plaintiff was granted lease of subject land by order dated 24.4.80 by defendants No.1 to 3 for establishing industry subject to condition that the plaintiff will raise construction over the allotted land and establish factory as per clause-7 of the lease agreement within one year, which the plaintiff could not make construction and could not commence production after making construction, which led to cancellation of her allotment by order dated 15.3.1983 and it was also allotted to defendant No.4 and possession was granted to it which lead to filing of the suit for declaration that order dated 15.3.1983 is unsustainable and bad in law.

Defendants No.1 to 3 by filing written statement denied the averments made in the plaint.

6. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment and decree dated 14.1.2004, dismissed the suit holding that as per clause-7 of the lease agreement the plaintiff could not raise and complete construction and also failed to establish factory by starting production within one year and could not satisfy the authority for not making construction and not establishing the industry within one year from the date of allotment i.e. 24.4.1980 and that finding has been affirmed by the first appellate Court.
7. After hearing learned counsel for the plaintiff at length and after going through the records, I am of the considered opinion that finding recorded by two Courts below that cancellation of lease deed by order dated 15.3.1983 was valid in law as the plaintiff could not commence construction and could not establish industry within one year from 24.4.1980 is finding of fact based on evidence available on record. It is neither perverse nor contrary to record. I do not find any perversity or illegality in the said finding and even I do not find any substantial question of law for

determination of this second appeal.

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

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-