

**HIGH COURT OF CHHATTISGARH AT BILASPUR****Second Appeal No. 274 of 2007**

Jitendra Kumar S/o Shyamlal Thakur, Aged about 30 year, R/o Village Baloda Bazar, P.S. and Tahsil Baloda Bazar, Distt. Raipur, Chhattisgarh.

**---Appellant/Plaintiff**

**Versus**

1. Shri A.K. Bais, Chief Executive Officer, Janpad Panchayat Baloda Bazar, Distt. Raipur, Chhattisgarh.
2. President Janpad Panchayat Baloda Bazar, Dist. Raipur, Chhattisgarh.
3. State of Chhattisgarh, through Collector, Raipur, Chhattisgarh.

**---Respondents/Defendants**

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For Appellant :- Mr. Vivek Ku. Pandey, Advocate  
 For State :- Mr. Ravi Bhagat, Deputy Govt. Advocate

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order on Board**

**13/01/2020**

1. Heard on admission and formulation in this second appeal preferred by the appellant/plaintiff under Section 100 of the CPC against the judgment and decree of the first appellate court affirming the judgment and decree of the trial Court dismissing the suit of the plaintiff.

2.Mr. Vivek Kumar Pandey, learned counsel for the appellant/plaintiff would submit that both the Courts below have concurrently erred in dismissing the suit of the plaintiff holding that plaintiff has failed to prove that suit shop was given to him on lease for three years by Janpad Panchayat, Baloda Bazar and he is also not in possession of the suit shop by recording a finding which is perverse and contrary to record. Therefore, the appeal deserves to be admitted by formulating substantial question of law in this regard.

3.Plaintiff filed a suit that the suit shop was leased to him for a period of three years by respondent No. 1 i.e. Janpad Panchayat, Baloda Bazar pursuant to which he is in possession of the suit shop and is entitled to use the suit shop.

4.Learned trial Court, upon appreciation of oral and documentary evidence on record, dismissed the suit holding that plaintiff has failed to prove the grant of lease in his favour by respondent No. 1 as auction made was cancelled before executing agreement, as such, no concluded contract was entered into between

the parties and he is also not in possession of the suit shop which has also been affirmed by the first appellate Court.

5. The concurrent finding recorded by both the Courts below that plaintiff was not granted lease for three years by defendant No. 1 — Janpad Panchayat, Baloda Bazar as no concluded contract was entered into between the parties on account of cancellation of auction is a finding of fact based on record which is neither perverse nor contrary to record and even otherwise, the three years' period from the date of filing of the suit has already been lapsed, as such, even no cause of action survives for consideration anymore.
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**