

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 184 of 2009**

Seeta Bai Yadav, W/o Late Darshanlal Yadav, Aged about 55 years, R/o Near the house of Advocate Saaking Ottalwar, Tilaknagar, Tahsil and Distt. Bilaspur, Chhattisgarh.

---Appellant/Defendant

Versus

Vikas Madhav Rao, S/o MaadhavRao Konher, Aged about 62 years, Retired Employee, R/o Tilaknagar, Tahsil and Distt. Bilaspur, Chhattisgarh.

--- Respondent/Plaintiff

For Appellant :- Mr. Ravindra Agrawal, Advocate

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

09/03/2020

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellant/defendant under Section 100 of the CPC against the impugned judgment and decree passed by the first appellate Court affirming the judgment and decree by which trial Court decreed the suit of the plaintiff.
2. Mr. Ravindra Agrawal, learned counsel for the appellant/defendant would submit that both the Courts below are absolutely unjustified in

holding that plaintiff is entitled for decree under Section 12 (1) (e) and (h) of the Chhattisgarh Accommodation Control Act, 1961 by recording a finding which is perverse and contrary to the record, as such, the appeal deserves to be admitted by formulating substantial question of law for determination.

3. Plaintiff filed a suit for eviction against the defendant stating *inter alia* that he is the title-holder and possession-holder of the suit accommodation which he let out to the defendant on rent of ₹ 100/- per month, but the defendant has failed to pay the rent from January, 2002 to November, 2004 despite service of notice and the suit accommodation is required bonafidely for the need of his son as he has no other alternative accommodation in the township of Bilaspur. The suit accommodation is also not fit for inhabitation and requires reconstruction. In the said suit, defendant did not file his written statement and ultimately, his opportunity to file written statement was closed by the trial Court.

4. Learned trial Court, upon consideration of oral and documentary evidence on record, decreed the suit of the plaintiff on the ground of Sections

12(1)(a) and (e) of the Accommodation Control Act. On appeal being preferred by the defendant, learned first appellate Court dismissed the appeal by affirming the finding of the trial Court on the ground of 12(1)(e) and (h) of the Accommodation Control Act but set aside the finding of the trial Court with regard to Section 12(1)(a) of the Accommodation Control Act.

5. Both the Courts below concurrently recorded the finding that the suit accommodation is bonafidely required for the residential purpose of plaintiff's son as he has no alternative accommodation in the township of Bilaspur. The said finding recorded by both the Courts below on the ground of bona fide need is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and does not involve any substantial question of law.

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