

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 197 of 2009**

Chandrakant Yadu S/o Badri Vishal Yadu, Aged about 32 years, Pan Merchant, Saraswati Chowk, Aminpara Purani Basti, Raipur, District Raipur, Chhattisgarh.

---Appellant/Defendant

Versus

Shri Ramchandra Swami (Nagari Das Mandir) Registered Public Trust, Through Its Working Trustee Shri S.K. Agrawal, S/o K.L. Agrawal, Purani Basti Ward, Raipur, Tahsil and District Raipur, Chhattisgarh.

--- Respondent/Plaintiff

For Appellant :- Mr. Anurag Singh, Advocate

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

02/07/2020

1. Proceedings of this matter have been taken up through video conferencing.
2. 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 the trial Court decreed the suit of the plaintiff.

3. Mr. Anurag Singh, learned counsel for the appellant/defendant, would submit that both the Courts below are absolutely unjustified in granting decree in favour of the plaintiff by recording a finding which is perverse and contrary to the record, therefore, the appeal deserves to be admitted by formulating substantial question of law for determination.

4. Plaintiff/respondent is a public trust registered under the Public Trusts Act, 1951 who filed a suit that defendant was his tenant on monthly rent of Rs. 18 and he, without permission of the plaintiff/trust, removed the gumti and in its place constructed a tin shed. It is also alleged that defendant failed to pay the rent regularly and therefore, plaintiff is entitled to decree for eviction.

5. Learned trial Court, upon appreciation of oral and documentary evidence on record, decreed the suit of the plaintiff which was affirmed by learned first appellate Court in the appeal preferred by the defendant.

6. Both the Courts below have clearly recorded a finding that plaintiff/trust is the landlord and defendant is its tenant and he has not paid arrears

of rent to the plaintiff and has also changed the use of the rented premises, without the permission of the plaintiff. The concurrent finding recorded by both the Courts below that defendant is the tenant of the plaintiff who has failed to pay the arrears of rent and has also changed the use of the suit premises rented to him without permission of the plaintiff, therefore, plaintiff is entitled to decree for eviction is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record and it does not give rise to any substantial question of law for determination in this appeal.

7. The second appeal, being devoid of merits, deserves to be and is accordingly dismissed *in limine* without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet