

Second Appeal No. 665 of 2019

---Appellant/Defendant

Smt. Pritam Kaur W/o Shri Mangat Singh Chawla, Aged
about 62 years, R/o Station Road Mahasamund, P.S.
Tahsil and District Mahasamund, Chhattisgarh.

For Appellant :- Mr. Surfaraj Khan and
Ms. Deepali Dubey, Advocates

27/01/2020

1. Heard on admission and formulation of substantial question of law in this second appeal under Section 100 of the CPC preferred by the appellant/defendant against the impugned judgment and decree by which the first appellate Court has dismissed the appeal affirming the judgment and decree of the trial Court decreeing the suit of the respondent/plaintiff.

2. Ms. Deepali Dubey, learned counsel for the appellant/defendant would submit that both the Courts below have concurrently erred in holding that defendant was only the licensee of the suit accommodation and not the lessee of the suit accommodation by recording a finding which is perverse to the record, therefore, the appeal deserves to be admitted for final hearing by formulating substantial question of law in this regard.

3. Plaintiff filed a suit for eviction and possession on the ground that defendant is her licensee of the suit accommodation which was given to her to reside when she came to work for the plaintiff and worked for her for a long time and on demand being made by the plaintiff to vacate, defendant has refused to vacate the suit accommodation which led to the filing of the suit by the plaintiff wherein defendant pleaded that she is residing in the suit accommodation as a tenant/lessee and therefore, she cannot be evicted from the suit accommodation without following the due process of law.

4. Upon appreciation of oral and documentary evidence on record, learned trial Court reached to the conclusion that defendant is the licensee of the plaintiff and she is not the lessee of the

plaintiff and ultimately, decreed the suit directing the defendant to hand over the vacant and peaceful possession of the suit accommodation to the plaintiff within two months from the date of decree against which the defendant preferred an appeal under Section 96 of the CPC but the same stood dismissed by the first appellate Court.

5. Both the Courts below, on the basis of appreciation and evaluation of evidence on record, have clearly held that defendant is a licensee of the plaintiff and she is not the tenant/lessee as claimed by her. Thus, the said concurrent finding recorded by both the Courts below holding defendant to be the licensee of the plaintiff qua the suit accommodation and not the lessee is a finding of fact based on evidence available on record which is neither perverse nor contrary to the record.

6. The second appeal does not involve any substantial question of law for determination and is accordingly dismissed *in limine* without notice to the other side. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge