

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 6 of 2012**

1. Divya Kranti Shikchan Samiti, Panchsheel Nagar, Durg, Through President, Address Shivaji Vidyapith, Panchsheel Nagar, Durg, Tahsil and Distt. Durg, Chhattisgarh.
2. Shivaji Vidyapith, Panchsheel Nagar, Durg, Through Principal, Shivaji Vidyapith.

---Appellants/Defendants

Versus

1. Govind Kurmi Chatriya Chatravas Trust Committee, Baghera, Tahsil and Distt. Durg, Chhattisgarh, Through Secretary Dr. Tarun Nayak, Aged about 30 years, S/o Shri Radhe Shyam Nayak, R/o Baghera, Ward No. 49, Durg, Tahsil and Distt. Durg, Chhattisgarh.

--- Respondent/Plaintiff

For Appellant :- Mr. Amiyakant Tiwari, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board (Through Video Conferencing)

29/06/2021

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants/defendants under Section 100 of CPC against the impugned judgment and decree passed by

the first appellate Court affirming the judgment and decree passed by the trial Court decreeing the suit of the plaintiff.

2. Mr. Amiyakant Tiwari, learned counsel for the appellants/defendants, would submit that both the Courts below have concurrently erred in holding that the suit accommodation was required by the plaintiff Trust bonafidely for running a hostel for the students belonging to 'Kurmi Samaj' studying in schools and colleges 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 in this regard.

3. The plaintiff – Trust brought a suit for eviction and arrears of rent of Rs. 13,600/- against the defendants stating inter alia that plaintiff Trust was established by Late Shri Ram Chandra Deshmukh for providing hostel facility to the students of 'Kurmi Samaj' studying at schools and colleges, but since the students were less in number, therefore, three rooms out of the total suit accommodation, shown as 'अ', 'ब' 'स' 'ड' in the map appended with the plaint, were let out to the defendant No. 1 Society run by defendant No. 2 at a monthly rent of Rs. 400/- commencing from the first date of the

calender month ending on the last date of the calender month. Later on, another part of the suit accommodation shown as 'क', 'ख', 'ग', 'घ' in map appended with the plaint was also demanded by defendant No. 1 Society and that was also let out by the plaintiff Trust, but thereafter, Shri Ram Chandra Deshmukh died and defendants also encroached upon the part of the suit accommodation shown as 'ड', 'इ', 'फ', 'क', 'ग', 'घ', 'ड' in the map without prior permission of the plaintiff Trust and the defendants further failed to pay the rent from 01/01/1998 till 31/10/2000 leading to the service of notice dated 31/08/2000 by the plaintiff Trust for eviction of the defendants terminating their tenancy and for arrears of rent.

4. Defendants filed their written statement and denied the plaint allegations stating inter alia that plaintiff's need is not bona fide and they even challenged the authority of the plaintiff Trust to initiate the proceedings.

5. Learned trial Court framed as many as 15 issues and ultimately held that defendants are tenants of the plaintiff Trust and the suit accommodation is required by them bonafidely and plaintiff Trust is a Public Trust, as such, the suit has been filed by

the competent authority and decreed the suit holding that defendants are liable to be evicted from the suit accommodation. On appeal being preferred by the defendants, learned first appellate Court affirmed the judgment and decree passed by the trial Court and dismissed the appeal.

6. Both the Courts below have concurrently recorded the finding that the relationship between the plaintiff Trust and the defendants was that of a landlord and tenant and the suit accommodation is required for bona fide need of the plaintiff Trust for providing hostel facility to the students of 'Kurmi Samaj' and they have no other alternative accommodation which can be used for the said purpose, as such, the tenancy has rightly been terminated and both the Courts below further held that plaintiff Trust is a public trust and the suit has been filed by the competent authority.

7. The said finding recorded by both the Courts below that relationship between plaintiff and defendants was that of a landlord and tenant and plaintiff Trust required the suit accommodation for bona fide need as such, the tenancy has rightly been terminated and defendants are liable to be evicted from the suit accommodation is a finding of fact

based on evidence available on record which is neither perverse nor contrary to the record. Even otherwise, since the trial Court while deciding issue No. 11 has clearly held that plaintiff Trust is a public Trust, as such, by virtue of the provisions contained under Section 3(2) of the Chhattisgarh Accommodation Control Act, 1961 by notification issued by the State Government, public trusts are exempted from the provisions contained in the Chhattisgarh Accommodation Control Act, 1961. Consequently, I do not find any good ground for admission of this appeal.

8. 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

Harneet