



IN THE HIGH COURT OF JUDICATURE AT BILASPUR,

CHHATTISGARH

Single Bench

Second Appeal No. 468 of 2005

APPELLANT/:

(Non-applicant)

Bhat Khande Lalit Kala

Shiksha Samiti,

Gandhi Chowk, Raipur,

Through its Secretary N.G.

Rai, S/o Late Shri Gagan

Chand Rai, Aged about ____

years, R/o 515, Bairan Bazaar

Raipur, Tehsil and District:

Raipur, Chhattisgarh.

- Versus -

RESPONDENT/:

(Applicant)

Surjit Sen, S/o Late Shri

Paritosh Sen, Aged about 41

years, R/o Gurukul Parisar,

Kalibadi, Raipur,

Chhattisgarh.

MEMO OF SECOND APPEAL UNDER SECTION 32 OF THE
CHHATTISGARH ACCOMMODATION CONTROL ACT, 1961

मामला क्रमांक .S.A...4.6.8./.25. सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>26.9.2006</u></p> <p>Shri Sanjay K. Agrawal learned counsel for the appellant. Shri Satyendra Sahu learned counsel for the respondent.</p> <p>Heard.</p> <p>The appellant has preferred this second appeal under section 32 of the Chhattisgarh Accommodation Control Act (hereinafter referred to as Act) against the order dated 29.8.2005 passed by District Judge, Raipur in Civil Appeal No. 33/2005 by which the appeal preferred by the respondent against the order dated 8.7.2005 passed by the Rent Controlling Authority, Raipur in Case No. 3-9-(4)/2004-05 has been allowed and it has been held that there is a landlord tenant relationship between the appellant and the respondent and it has been directed that the appellant shall restore the water and electricity facilities which were available to the respondent before disruption, till a decree of eviction is passed by the competent Court and till then the appellant shall not interfere with said facilities.</p> <p>Learned counsel for the appellant submits that an application filed by the respondent under section 38 of the Act was rejected by the Tribunal with a finding that there is no landlord tenant relationship between the appellant and the respondent and consequently proceedings under section 38 of the Act were terminated and against that order an appeal under section 31 of the Act was filed by the respondent and the learned appellate Court while reversing the finding of the Tribunal that no landlord tenant relation existed between the parties and further holding that such</p>	

मामला क्रमांक ...S.A...468/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>relationship is there between them has allowed the application under section 38 of the Act without conducting any inquiry as envisaged in section 38 (3) of the Act.</p> <p>On the other hand learned counsel for the respondent submits that in reply to the application under section 38 of the Act the appellant has categorically denied that they have interfered with the water connection or electricity connection in the suit premises and in the light of the submissions made by the appellant in their reply the impugned order cannot be questioned on the ground of inquiry.</p> <p>I have heard learned counsel for the parties, perused the impugned order as also the pleadings of the respective parties before the tribunal.</p> <p>So far as the findings recorded by the appellate Court that the relationship of landlord and tenant existed between the parties are concerned, counsel for the appellant does not dispute that part of the order. So far as the ground taken by the appellant that the first appellate Court could not have passed any order on an application under section 38 of the Act without conducting inquiry is concerned, looking to the pleadings of the respective parties and the fact that the appellant has admitted in his reply to the application that he has not disrupted the essential services available to the respondent in his tenanted premises, the impugned order directing the appellant to restore essential services in his tenanted premises cannot be questioned.</p>	

P.T.O.

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>Thus, the appeal is disposed of with a direction that the services available to the respondent in the accommodation in question occupied by the respondent shall be restored and they shall not interfere with the said services till he is lawfully evicted by a competent Court.</p> <p>The appeal is thus disposed of.</p>	<p>Sd/- Dhirendra Mishra Judge</p>

P.T.O.

4/10/08 829/12
Q/10/10