

**(2019) 08 CHH CK 0231**

**Chhattisgarh High Court**

**Case No:** Second Appeal No. 533 Of 2004

Shyamlal Khatri And Ors

APPELLANT

Vs

Rajaram Verma And Ors

RESPONDENT

**Date of Decision:** Aug. 30, 2019

**Acts Referred:**

- Code Of Civil Procedure 1908 - Section 100

**Hon'ble Judges:** Sanjay K. Agrawal, J

**Bench:** Single Bench

**Advocate:** Punit Ruparel

**Final Decision:** Dismissed

### **Judgement**

Sanjay K. Agrawal, J

1. Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by the defendants under Section 100 of the CPC.

2. Mr. Punit Ruparel, learned counsel appearing for the defendants would submit that both the Courts are absolutely unjustified in granting decree of permanent injunction in favour of the plaintiff by recording a finding which is perverse and contrary to record and gives rise to substantial question of law for determination in this second appeal.

3. The original plaintiff - Rajaram Verma filed a civil suit for permanent injunction stating inter alia that he is the tenant of the suit accommodation which is owned by public trust Shri Laxmi Narayanji Maharaj, Killa Mandir, Durg. The plaintiff is continuing his possession as tenant of the said suit

accommodation, which is being interfered by the defendants. They have no authority of law as the public trust Shri Laxmi Narayanji Maharaj, Killa

Mandir has already filed a civil suit for eviction against the plaintiffs (now, his Lrs.), therefore, defendants be restrained from interfering in their possession.

4. Learned trial Court as well as the first appellate Court, both have found that defendants have no authority to interfere with the possession of the plaintiff as he (plaintiff) is tenant of the suit accommodation which is owned by public trust Shri Laxmi Narayanji Maharaj, Killa Mandir,, against which this second appeal has been preferred by the defendants.

5. Both the Courts below have clearly held that original plaintiff was the tenant of the suit accommodation which is owned by the public trust Shri Laxmi Narayanji Maharaj, Killa Mandir and defendants have no right, title over the suit accommodation to interfere with the possession of the plaintiffs. The said finding recorded by both the Courts below is a finding of fact based on evidence available on record which is neither perverse nor contrary to record and does not give rise to any substantial question of law for determination in this second appeal.

6. The second appeal deserves to be and is accordingly dismissed in limine without notice to the other side. No order as to cost(s).