

(2019) 02 CHH CK 0190

Chhattisgarh High Court

Case No: Writ Appeal No. 29 Of 2019

Kirodimal Charity Trust

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Feb. 13, 2019

Acts Referred:

- Constitution Of India, 1950 - Article 226

Hon'ble Judges: Ajay Kumar Tripathi, CJ; Parth Prateem Sahu, J

Bench: Division Bench

Advocate: Ashish Shrivastava, Vivek Sharma

Final Decision: Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. Heard the learned counsel for the Appellant and the learned Panel Lawyer for the State.

2. I.A. No.1 of 2019 is an application for condonation of delay of 174 day. For the reasons assigned in the said I.A., delay is condoned.

3. Appeal is directed against the order dated 04.05.2018 passed by the learned Single Judge in a writ application filed on behalf of the Appellant

seeking quashing of a letter dated 09.06.1997 passed by the Deputy Collector, Raigarh where the claim by the Appellant for seeking rent of the

disputed property as well as challenge thrown to Clause 7.3 and 7.4 of the agreement dated 01.10.1986 for a declaration for them to be void and

inoperative coupled with the order dated 04.02.2004 passed by the Rent Controlling Authority, Raigarh where the property in question stands allotted

to one Ramakrishna Vivekanand Mission, were under challenge in the writ application.

4. Taking the history of the dispute, the learned Single Judge refused to entertain the writ application and exercise his discretion under Article 226 of

the Constitution of India primarily holding that it was a civil dispute between the parties and remedy thereof will lie before a Civil Court of competent

jurisdiction.

5. We have also been through the impugned order of the learned Single Judge as also the records i.e. the paper-book of the writ application. The facts

are contested. There is a long history behind the execution of the agreement and subsequent developments in relation to taking over the assets and

liabilities etc. by State way back in the year 1986 itself. In these circumstances the remedy under Article 226 of the Constitution of India has rightly

been rejected by the learned Single Judge. Dismissal of the writ or the appeal by us however, will not come in the way of the parties approaching a

Civil Court of competent jurisdiction for appropriate declaration or relief.

6. Appeal has no merit. It is dismissed.