

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Second Appeal No. 404 of 2016

Urmila Shrivastava Vs. Ramesh Chandra Verma & others.

31/08/2016	Mr. Prafull N. Bharat, counsel for the appellant Heard on admission. Counsel for the appellant submits that though present appellant/defendant No. 2 was impleaded as party defendant in the suit but no pleading regarding eviction was made against the present appellant. He further submits that defendant No. 1 is tenant and as no relief for eviction was made against her, no relief of eviction can be granted against the appellant No.2/defendant. He placed reliance upon the judgment of Supreme Court in the matter of Shehla Burney (DR.) & others Vs. Syed Ali Mossa Raza (DEAD) by LRs. and others¹ in support of his submission. This appeal, being arguable, is admitted for final hearing and shall be heard on following substantial questions of law:- “(1) Whether the First Appellate Court was justified in granting decree for eviction and arrears of rent under Section 12(1)(a) of the Chhattisgarh Accommodation Control Act, 1961 ignoring the fact that there is no proper pleading or prayer for	

	eviction made against the defendant No. 2/appellant ? (2) Whether the First Appellate Court was justified in holding that execution and attestation of Will by Bharat Lal Verma in favour of plaintiff No.1 and Umesh Chandra Verma (deceased) is established ? Issue notice to the respondents on merits along with substantial questions of law on payment of process fee within seven days through ordinary mode as well as by registered post. Also heard on I.A. No. 1, application for grant of stay. On due consideration, the I.A. No.1 is allowed. Effect & operation of the impugned decree directing delivery of possession shall remain stayed until further orders. List it for consideration in week commencing 26th September, 2016. Sd/- (Sanjay K. Agrawal) Judge	
--	---	--

D/-