

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6027 of 2015 (O/M)
Date of decision : 17.9.2015

Lala Lajpat Rai University of Veterinary and Animal Sciences, Hisar
..... Revisionist

Versus

Umesh Yadav and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Dharmender Singh Rawat, Advocate,
for the revisionist.

Mr. R.K. Malik, Senior Advocate, with,
Mr. Mandeep Singh, Advocate,
for caveator-respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

This revision has been filed against the order dated 25.8.2015 (Annexure-P-1), passed by the learned Civil Judge (Junior Division), Hisar, as well as the order dated 7.9.2015 (Annexure-P-2), passed by the learned Additional District Judge, Hisar, on an application filed under Order 7 Rule 11 of Code of Civil Procedure, 1908 (in short 'CPC').

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Briefly stated, the plaintiffs (respondents herein) had filed a suit for directing the defendant-University (revisionist herein) to grant them admission in their college. Pending the said suit and before filing the written statement, defendant-University/revisionist filed an application under Order 7 Rule 11 CPC for rejection/return of the plaint being pre-mature and without being any cause of action on the ground that the date of counselling is 25.8.2015, whereas the present suit was filed on 21.8.2015. The learned Civil Judge (Junior Division), Hisar, while dismissing the application, passed the following directions :-

“4. Therefore, the application in hand stands dismissed and in the interest of justice, the defendant-University is hereby directed to allow the plaintiffs to participate in the counselling for M.V.Sc./Ph.D. programmes to be held on 25.08.2015 subject to their provisional admission on fulfilling of all the minimum education requirements for admission except the Clause 3.1 (ii) as mentioned in the prospectus for the year 2015-2016 at page No. 14.

5. However, it is made clear that the admission of the plaintiffs is totally on provisional basis until and unless the final decision in this suit is announced and if the present suit is dismissed, in that eventuality, the admission of the plaintiffs would be cancelled.”

Aggrieved by the said order, the appeal was preferred before the learned Additional District Judge, Hisar, who dismissed

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the appeal, vide order dated 7.9.2015 (Annexure-P-2), making following observations :-

“21. As a sequel of my findings, the appeal assailing orders dated 25.08.2015 is hereby dismissed. The orders of the learned trial Court dated 25.08.2015 is upheld. The defendant-University is directed to conduct counselling; to allow the plaintiffs/respondents to participate in the counselling and if found eligible, other than eligibility condition contained in Clause 3.1 (ii) of the prospectus, to admit them.”

Aggrieved from the orders passed by both the Courts below, the defendant-University/revisionist has come up in present revision.

I have heard the learned counsel for the parties and have also carefully gone through the file.

I am of the view that the directions given by the learned Civil Judge (Junior Division), Hisar, as well as the learned Additional District Judge, Hisar, are beyond the purview of provisions of Order 7 Rule 11 CPC. The defendant-University/revisionist had merely sought the rejection of the plaint on the ground that it is pre-mature and also on account of the fact that the plaintiffs/respondents have no cause of action since the date of counselling had not arrived. In the said application, the lower Court was required to decide only this fact as to whether the plaint is to be rejected or not. The lower Court

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decided that the plaint is not to be rejected. Therefore, the application was dismissed, but at the same time, relief was granted to the plaintiffs/respondents. The first appellate Court, while dismissing the appeal, also gave directions to the defendant-University/revisionist.

I am of the view that both the Courts below have erred in giving directions, while disposing of the application filed under Order 7 Rule 11 CPC. The said directions are beyond the scope of provisions of Order 7 Rule 11 CPC. If the plaintiffs/respondents had filed some suit and seek some interim relief, it is always open to the lower Court to pass temporary mandatory injunction as it deems fit. But, this could not be done in an application filed under Order 7 Rule 11 CPC. Therefore, so far as giving directions to the defendant-University/revisionist are concerned, both the impugned orders are not sustainable in the eyes of law. Therefore, without further going into the controversy, which may prejudice the application filed by the plaintiffs/respondents for grant of interim relief, both the impugned orders so far as giving directions regarding counselling/admission are set aside.

The present revision is accordingly allowed.

Since it is admission matter and according to the learned senior counsel for the plaintiffs/respondents, an application for grant of interim direction is pending before the lower Court, both the

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parties are directed to put in appearance before the lower Court on 21.9.2015 at 10:00 AM, so that the application, if any of the plaintiffs/respondents for grant of interim direction, can be taken up and disposed of in accordance with law.

The copy of the order be given dasti to the learned counsel for the parties under the signatures of Bench Secretary of this Court.

(KULDIP SINGH)
JUDGE

17.9.2015
sjks