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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3422/2013**

SD KINRA

..... Petitioner

Through Mr.M.Tarique Siddiqui with
Mr.Tanveer Ahmad, Advocates.

versus

LA & SONS & ORS

..... Respondents

Through Mr.Avadh Kaushik, Advocate for R-
1.
Mr.Manish Mohan, CGSC with
Mr.Shivam Ghanana, Advocate for R-
2, 3 & 4.
Mr.Ashwai K.Dubey with Mr.Sanjeev
Kumar Baliyan, Advocates for R-5.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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15.03.2016

Learned counsel for the petitioner prays for some more time to file a rejoinder-affidavit.

On the last date of hearing, it was directed that the petitioner should file his rejoinder-affidavit within a period of four weeks. It was also made clear that no adjournment would be granted on the next date of hearing. Consequently, this Court has no other option but to proceed ahead with the matter.

It is pertinent to mention that the present writ petition has been filed with the following amended prayers:-

(i) The respondent No.1 should be penalized for stocking expired medicines/eye drops and if the petitioner would have used it, he

would have damaged his eyes and become Milton who could not pay obeisance to God while in Church. The petitioner request that the respondent No.1 and 3 & 4 must read sonnet on his blindness by Milton.

(ii) The petitioner submits that Rs.3,00,000/- being damages be imposed on respondent No.1, apart from the cost because he has supplied outdated eye drops to the CGHS beneficiaries and if he would have used it, he would have become a Milton while will be very bad in history and bring a bad name to country. If the respondent No.1 could give expired medicines to the educated one like petitioner, it would be very simple for them to sell the expired medicines to the innocent and illiterate people please do not allow them to play with the life's of the people. The petitioner requests this Hon'ble Court to kindly not allow such action in future.

(iii) That the Hon'ble Court will appreciate that the balance of convenience lies in favour of the petitioner and against the respondent No.1 therefore, damage must be imposed as stated above and paid to the petitioner.

The petitioner claims damages on account of expired eye drops being provided to him. However, the case of respondent no.1 is that neither the petitioner ever came to his shop at any point of time on the given dates nor the said eye drops with the said batch numbers were ever supplied by it to the petitioner.

In view of the aforesaid averments, this Court is of the view that serious disputed questions of fact arise for consideration. Consequently, the present writ petition is dismissed with liberty to the petitioner to file appropriate legal proceedings seeking recovery of damages in accordance with law.

It is however clarified that the present order has been passed without prejudice to the rights and contentions of either of the parties.

The pleas and defences of all the parties are left open.

MANMOHAN, J

MARCH 15, 2016
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