

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.3881 of 2016 (O&M)

Date of Order:14.07.2017

Pardeep Kumar Mehta

..Petitioner

Versus

Kamlesh Chander Mahajan and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aman Dhir, Advocate,
for the petitioner.

Mr. Sanjay Majithia, Senior Advocate, with
Mr. Inderjeet Singh, Advocate,
for the respondents.

ANIL KSHETARPAL, J.

C.M.No.14346-CII of 2017

Counsel for the respondents does not press this application.

Dismissed as not pressed.

Civil Revision No.3881 of 2016

The present revision petition has been filed against order passed by Civil Judge (Junior Division), Rupnagar, dated 03.10.2015 (Annexure P-8), whereby application filed by the defendant-petitioner for treating Issue No.2 as preliminary issue has been ordered to be dismissed.

Issue no.2, as framed by the learned trial court, reads as follows:-

“Whether the suit of the plaintiffs is not maintainable in the present form?OPD”

Provision for treating an issue as preliminary issue is dealt with under Order 14 Rule 2 of the Code of Civil Procedure, which is

extracted as under:-

“Order 14 Rule 2:-Court to pronounce judgment on all issues:-

(1) XX XX XX

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to—

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force.

and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.] “

As per sub-Rule 2 of Order 14 Rule 2 of the Code of Civil Procedure, an issue of law with respect to jurisdiction of the Court or a bar to the suit created by law for the time being in force can only be treated as preliminary issue.

In the present case, the assertion of the defendant-petitioner is that since the suit is pre-mature, therefore, that issue should be treated as preliminary issue. The original suit is for defamation on account of allegations made during the proceedings before the Consumer Court in the interrogatory. The defendant had filed a complaint before the Consumer Court, which has been dismissed during the pendency of the present revision petition. Even the appeal filed by the petitioner has been dismissed.

According to counsel for the petitioner, a revision petition is pending before the National Consumer Disputes Redressal Commission. A reading of the allegations made in the plaint shows that the suit for damages has been filed on account of defamation.

Counsel for the petitioner has failed to point out the lack of jurisdiction on the part of the Court to deal with the suit or a statutory bar for the Court to try the suit.

In these circumstances, the revision petition filed by the petitioner is ordered to be dismissed.

July 14, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No