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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 457/2017**
FORSAN HEALTHCARE PVT LTD Petitioner
Through: Mr. Tanmay Mehta, Adv.
versus

DIRECTORATE GENERAL CENTRAL
GOVERNMENT HEALTH SCHEME & ANR Respondents
Through: Mr. Sanjay Jain, ASG with Mr. Vinod
Diwakar, CGSC with Mr. Rajat Gaur
and Ms. Shivee Pandey, Advs. for R1
& R2/UOI.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
25.08.2017

1. The petitioner is seeking initiation of contempt proceedings against the respondents for violation of the orders dated 13th October, 2016, 14th December, 2016, 04th January, 2017 and 08th March, 2017 passed by Mr. Ajay Goel, Additional District Judge and the undertaking dated 11th May, 2017. According to the petitioner, more than Rs.16 crores is outstanding from the Government.
2. The record of the Trial Court has been perused. Three employees of the petitioner instituted a civil suit for recovery, declaration, permanent and mandatory injunction against the petitioner challenging their termination vide letter dated 07th May, 2016 and seeking recovery of Rs.1,57,200/- from the petitioner. The plaintiffs therein impleaded UOI (defendant No.3) and Directorate General, Central Government Health Scheme (defendant No.4) and sought permanent injunction against the Union of India from giving effect to the termination of the contract between the Government and the petitioner.
3. In the aforesaid suit, the petitioner (defendants No.1 and 2) filed a

counter-claim for specific performance, permanent and mandatory injunction against the Government (defendants No.3 and 4 in the suit). The petitioner also filed an application under Order XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908 which was allowed by the Trial Court vide order dated 13th October, 2016 whereby the Government was restrained from acting upon the termination letters dated 16th February, 2016 and 06th May, 2016 and from interfering in the functioning of 13 CGHS health centres and dispossessing the petitioner from the centres till the pendency of the suit.

4. Mr. Sanjay Jain, learned ASG has been requested by this Court to assist in this matter. Learned ASG submits that the counter-claim by the petitioner (defendants No.1 and 2) against the co-defendants (defendants No.3 and 4) was not maintainable in law and the petitioner has abused and misused the process of law by filing a frivolous counter-claim and obtaining injunction against the Government. It is further submitted that the Government has serious objections to the monetary claim made by the petitioner. Without prejudice, it is submitted that the petitioner's monetary claim has not been adjudicated by any Court. There is merit in the submissions of learned ASG.

5. At this stage, Ms. Pallavi Sharma, Managing Director of the petitioner present in Court undertakes to withdraw the counter-claim as well as the application under Order XXXIX Rule 1 & 2 of Code of Civil Procedure in civil suit No.1555/2016 pending in the Court of Additional District Judge within a period of two weeks from today with liberty to file a fresh suit to claim the reliefs made in the counter-claim and any other relief available to the petitioner in accordance with the law. The undertaking of the petitioner is accepted.

6. The parties shall appear before the Trial Court on 11th September, 2017 when the Trial Court shall dismiss the counter-claim as withdrawn

with liberty to the petitioner to institute fresh suit and the Trial Court shall vacate the order dated 13th October, 2016 as well as all orders relating to defendants No.3 and 4.

7. The petitioner shall furnish the advance copy of the paper book of the fresh suit, if instituted, to the Directorate General, Central Government Health Scheme at least three days before its listing. The Government would be at liberty to contest the suit and to take all pleas available to it in facts and law.

8. Learned ASG submits that UOI (defendant No.3) and Directorate General, Central Government Health Scheme (defendant No.4) are not necessary parties in the suit between the petitioner and his employees and, therefore, defendants No.3 and 4 be deleted from the array of parties before the Trial Court. The petitioner has no objection to this. In that view of the matter, the learned Trial Court shall delete respondents no.3 and 4 from the array of the parties.

9. The contempt petition is disposed of in the above terms.

10. The Trial Court record be returned back forthwith.

11. This Court appreciates the assistance rendered by Mr. Tanmay Mehta, learned counsel for the petitioner as well as Mr. Sanjay Jain, learned ASG in this matter.

12. Copy of this order be given *dasti* to counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

AUGUST 25, 2017
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