

HIGH COURT OF CHHATTISGARH, BILASPURSecond Appeal No.253 of 2006

John Emmanuel S/o John David, aged 60 years, occupation:Nursing Superintendent and founder Leprosy Hospital and Clinic Reg. No.1798, Basantpur, Rajnandgaon, R/o Veslian Church Compound, Dist. Rajnandgaon (CG)

---- Appellant/Plaintiff

Versus

1. Rajnandgaon Leprosy Hospital and Clinics, Reg No.1798 Through Secretary, Registration Office, Basantpur, Rajnandgaon, Dist. Rajnandgaon (CG)
2. Dr.C.S. Paine aged 65 years, R/o Rajnandgaon Leprosy Hospital and Clinics, Basantpur, Dist Rajnandgaon (CG)
3. Tiharu Deshlahare S/o Sadhu Deshlahare aged 41 years occupation -service R/o Leprosy Hospital and Clinics Compound near the pond, Basantpur, Rajnandgaon, Dist. Rajnandgaon
4. Praveen Lal S/o Joshi S. Lal, aged 26 years, occupation-service, R/o. Mamta Nagar, Rajnandgaon, Dist. Rajnandgaon (CG)

---- Respondents

For Appellant/Plaintiff	:	Mr.Praveen Dhurandhar, Advocate
For Respondents No.1, 3 & 4 :		Mr.Anand Shukla, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

01/08/2019

1. The substantial question of law involved, formulated and to be answered in this plaintiff's second appeal is as under: -

“Whether the termination of the appellant from the services of the Society was not in accordance with law and the findings in this regard are perverse ?”

(For the sake of convenience, parties would be referred hereinafter as per their status shown in the plaint before the trial Court.)

2. The plaintiff filed a suit stating inter-alia that he was working with defendant No.1, who is registered society under the Madhya Pradesh Society Registrkaran Adhiniyam, 1973 (hereinafter called as “the Act of 1973”) on the post of Nursing Superintendent w.e.f. 7.1.1994 and his services have been terminated w.e.f. 10.5.1999, which is illegal and without authority of law. Therefore, declaration of title, compensation and permanent injunction be granted against defendants No.1 and 2.
3. The defendants filed their written statement and opposed the plaint allegation stating inter-alia that the suit as framed and filed is not maintainable. The trial Court after appreciating oral and documentary evidence available on record, by its judgment and decree dated 22.4.2004, dismissed the suit holding that the plaintiff has been terminated in accordance with law and his termination is not punitive and in case of master and servant relationship, the suit would not be maintainable, which was upheld by the first appellate Court, against the judgment and decree of the first appellate Court, this second appeal under Section 100 of the Code of Civil Procedure, 1908 has been filed by the appellant/plaintiff, in which, substantial question of law has been formulated and set-out in the opening paragraph of this judgment.
4. Mr.Praveen Dhurandhar, learned counsel for the appellant/plaintiff, would submit that both the Courts below were absolutely unjustified in dismissing the suit by recording the perverse finding, which deserves to be set aside.

5. Mr. Anand Shukla, learned counsel for respondents No.1, 3 and 4, would support the impugned judgment and decree.
6. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
7. Defendant No.1/Society is registered under the Act of 1973. The plaintiff was working under defendant No.1/Society and his services were terminated by defendant No.2. Both the Courts below have concurrently held that services of the plaintiff have been terminated in accordance with the terms and conditions mentioned in the order of appointment, which is strictly in accordance with law. Even otherwise, it is the case of master and servant relationship and in that case, the plaintiff is not entitled to enforce that contract. The only remedy is available to the plaintiff to file suit for damages, if any. I do not find any illegality or perversity in the finding recorded by two Courts below. The substantial question of law is answered in favour of the defendants and against the plaintiff.
8. Accordingly, the second appeal deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).
9. Decree be drawn-up accordingly.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-