

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 416 of 2018

- G. P. Singh S/o Rajmani Singh Aged About 43 Years Singh Prop M/s
Safeguard, R/o Aradhana Nagar Bhopal District- Bhopal, Madhya Pradesh

---- Appellant

Versus

1. State Of Chhattisgarh Through Chief Secretary, Dks Bhawan Now Mahanadi Bhawan, Mantralaya, Raipur, District- Raipur, Chhattisgarh
2. Secretary Public Health, Dks Bhawan Now Mahanadi Bhawan Matralaya, Raipur, District- Raipur, Chhattisgarh
3. Additional Director Medical Education, Matralaya, Raipur, District- Raipur, Chhattisgarh
4. Dean Pt. Jawaharlal Nehru Smriti Medical College, Raipur, District- Raipur, Chhattisgarh

--- Respondents

For Appellant	:	Mr. Vivek Tripathi, Advocate.
For Respondent/State	:	Mr. Ankur Kashyap, Panel Lawyer.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

01/10/2019

1. Learned counsel for the appellant would argue that learned Court below wrongly held the suit as barred by limitation by misconstruing the provision contained in Section 14 of the Limitation Act ignoring that the period during which appellant bona fide prosecuted writ petition before the High Court was not only liable to be excluded but by the period of limitation would start only from the date of the passing of the order by the High Court.
2. As held by learned trial Court, plaintiff instituted suit for recovery of payables in the financial years 1998-99 and 1999-2000. According to the plaintiff, cause of action arose on 23.02.2006 when the High Court allowed plaintiff to institute present suit.
3. We find that learned trial Court, while coming to the conclusion that the

plaintiff's suit is barred by limitation, has taken into consideration the provision contained in Section 14 of the Limitation Act and has also taken into consideration the period which is liable to be excluded. Even according to the plaintiff, as no specific date of last bill or last payment was brought on record, the learned trial Court proceeded on the basis of that cause of action arose on 01.04.2000. Factual submissions made by the plaintiff are that the first writ petition which was filed in the year 2001, was disposed off on 13.03.2002. So, the maximum period which could be excluded was the period from 01.01.2001 to 13.03.2002. Second writ petition was filed in the year 2002 which was disposed off on 23.02.2006. As the second writ petition was filed after receiving reply of refusal to pay in terms of letter dated 06.07.2002 of the defendant No. 4, learned trial Court held that the period from July 2002 to 23.02.2006 was liable to be excluded.

4. In para 13 of the impugned judgment, it has been held that even if the entire period, calculated as above, based on plaintiff's own pleading, is excluded, suit is barred by limitation. In taking this view, learned trial Court has taken into consideration that the suit was filed after 35 months of the alleged liberty granted by the High Court.
5. There is no illegality in the finding of the learned trial Court that once the period of limitation begins to run, it will not stop, though, in computing the period of limitation, time during which plaintiff was prosecuting before another Court against the defendant shall be excluded. The period of limitation will not begin to run after dismissal of writ petition. The period of limitation has to be reckoned from on 01.04.2000. From that date, till the date of filing of the respective writ petitions limitation continued to run. The period during which writ petitions remained has rightly been excluded from incomputing the period of limitation. Despite that, it has been found that the suit is beyond prescribed period of 3 years. There is no illegality in the order. There is no merit in this appeal. The appeal therefore deserves to be dismissed, at the admission stage itself without issuing notices to the other parties.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge