

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 118

Case No. : C. R. No. 5570 of 2019

Date of Decision : September 09, 2019

Darya Singh and another .... Petitioners

vs.

M/s Reliance Jio Communication  
and others .... Respondents

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.**

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Present : Mr. Naveen Siwach, Advocate  
for the petitioners.

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**DEEPAK SIBAL, J. (Oral) :**

The present petition is directed against order dated 02.04.2019 passed by the Civil Judge (Junior Division), Hisar (for short – the Trial Court) dismissing an application filed by the petitioners under Order 39 Rules 1 and 2 CPC. Also under challenge is the order dated 20.07.2019 passed by the Additional District Judge, Hisar (for short – the Appellate Court) dismissing the petitioners' appeal filed by them against the aforesaid order of the Trial Court.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition, are that the petitioners filed a suit seeking therein to injunct respondent no. 1 from erecting/installing a mobile tower in a vacant plot adjacent to the houses of the petitioners/ plaintiffs.

Along with their suit, they filed an application under Order 39 Rules 1 and

2 CPC seeking therein ad interim injunction.

Primarily, the case set up by the petitioners was that in case respondent no.1 is permitted to set up the mobile tower close to their houses, from the electro-magnetic radiations emanating from such tower, they would get chronic diseases such as brain tumour etc.

On being put to notice, respondent no. 1 filed a written statement disputing the petitioners' claim. It was inter alia submitted that as per the latest report by the World Health Organization (WHO), there was no indication that environmental exposure to radio-frequency fields from mobile base stations increased the risk of cancer or any other disease.

The Trial Court, after considering the entire matter, dismissed the petitioners' application. The petitioners then challenged the order passed by the Trial Court by way of an appeal, which was also dismissed by the Appellate Court. It is in these circumstances that the petitioners have filed the present revision petition.

Learned counsel for the petitioners submits that respondent no.1 is setting up its mobile tower without following the procedure laid down in the Haryana Municipal Corporation (Erection of Communication Towers) Bye-Laws, 2009 (for short – the bye-laws) and if respondent no. 1 is allowed to set up its mobile tower, the rays emanating from it would be a cause of serious health concerns for the petitioners and their families.

Neither the issue with regard to violation of the aforesaid bye-laws was pleaded and raised before the Trial Court/Appellate Court nor any such bye-laws have been produced before this Court. It has also not been

violated by respondent no. 1 in the setting up of its tower. The submission in this regard is found to be vague and unsubstantiated and is, therefore, rejected.

So far as the proposed mobile tower being a health hazard is concerned, the Appellate Court is found to have rightly dismissed the petitioners' appeal after going through the report of the World Health Organization as also Division Bench judgments of the Bombay High Court in Writ Petition No.2152 of 2014 – Biju K. Balan vs. The State of Maharashtra and others, decided on 23.01.2019, of the Kerala High Court in Reliance Infocom Limited vs. Chemanchery Grama Panchayat and others – AIR 2007 Kerala 33, and the Gujarat High Court in Muktipark Co-operative Society versus Ahmedabad Municipal Corporation – 2014 SCC Online Guj. 9830 as also a Single Bench judgment of this Court in CWP No. 12047 of 2013 (O&M) – Dhup Singh and others vs. Union of India and another, decided on 09.07.2014 wherein it has been held that the fear of the public at large that erection of base stations/mobile towers is a cause of serious health risks is unwarranted.

In view of the above, there is no merit in the present revision petition.

Dismissed.

( DEEPAK SIBAL )  
JUDGE

September 09, 2019  
*monika*

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|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |