

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

CR No. 2300 of 2020 (O&M)
Date of Decision : 16.11.2020

PT. BHAGWAT DAYAL SHARMA PGIMS, ROHTAK AND ANR

...Petitioners

Versus

DR. GAURAV

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Aditya Jain, Advocate and
Mr. Rajat Garg, for the petitioners.

Mr. Anurag Goyal, Advocate for the respondent.

Harsimran Singh Sethi, J. (Oral)

CM-9897-CII-2020

Present application has been filed for placing on record the documents as Annexures A-1 to A-3.

Application is allowed and documents as Annexures A-1 to A-3 are taken on record.

CR-2300-2020

Present Civil Revision has been filed by the petitioners against the order dated 10.08.2020 (Annexure A-1) by which the application filed by the petitioners/defendants under Order 7 Rule 11 CPC for rejection of

the plaint has been rejected and application filed by respondent/plaintiff under Order 39 Rules 1 and 2 read with Section 151 CPC, has been allowed by restraining the petitioners/defendants from withholding the result of the respondent/plaintiff for MS (Orthopedics) and also for issuing the relevant certificates/documents, which are consequent upon the declaration of the result.

Learned counsel for the petitioners argues that the prayer of the plaintiff in the suit is beyond the jurisdiction of the Trial Court as the plaintiff/respondent has prayed for a direction to the petitioners/defendants to withdraw the FIR by filing a Civil Suit. Learned counsel for the petitioners concedes that apart from the said prayer, there are other prayers, which have been prayed for in the Civil Suit by the respondent/plaintiff and those are well within the jurisdiction of the Trial Court. That being so, the suit filed by the respondent/plaintiff cannot be rejected by invoking the powers under Order 7 Rule 11 CPC merely on the ground that one out of the several prayers is beyond the jurisdiction of the Trial Court. Suit can proceed in respect of those prayers and the same cannot be summarily dismissed by invoking the powers under Order 7 Rule 11 CPC.

Once, the Competent Court of Law is within the jurisdiction to grant the prayers of declaring the enquiry illegal and also declaring the appointment of a Nodal Enquiry Officer illegal or the enquiry report not binding upon the plaintiff, the suit is maintainable and cannot be rejected merely on the ground that one of the prayer of the plaintiff/respondent in the suit for withdrawing the FIR is beyond the jurisdiction of the Trial Court.

Keeping in view the above, no interference is called for with

the order dated 10.08.2020 (Annexure A-1) as far as the rejection of the prayer of the petitioners for rejecting the plaint, as prayed vide application filed under Order 7 Rule 11 CPC.

With regard to the grievance of the petitioners that the application filed by the respondent/plaintiff under Order 39 Rule 1 and 2 read with Section 151 CPC has been allowed, wherein, the defendants have been restrained from withholding the result of the respondent/plaintiff for MS (Orthopedics) and the consequential release of the documents is concerned, the petitioners have availed the remedy of appeal against the said directions order by filing Civil Misc. Appeal No. 125 of 2020. The said appeal filed by the petitioners has also been dismissed on 09.10.2020 i.e. during the pendency of the present Civil Revision.

Learned counsel appearing on behalf of the petitioners submits that the petitioners are not pressing the said prayer in the present Civil Revision and he may be allowed to withdraw this Civil Revision qua the grant of relief to the respondent/plaintiff for not withholding the result and release of consequential documents, with liberty to file a comprehensive Civil Revision for the said purpose by challenging the orders passed in appeal as well.

Keeping in view the facts and circumstances, the liberty is granted to the petitioners to file a fresh Revision Petition in case, the petitioners are in any manner aggrieved against the order dated 10.08.2020 (Annexure A-1) by which the application filed by the plaintiff (respondent herein) under Order 39 Rules 1 and 2 read with Section 151 CPC has been allowed and the appeal filed by the petitioners has been dismissed on

09.10.2020 (Annexure A-3).

November 16, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No