

\$~55 (2021)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 30.09.2021

+ **LPA 677/2019**

DR. VINAY KUMAR SINGH & ORS.

.....Appellants

Through: Mr. Pankaj Kumar, Mr. Sandeep Kumar Singh, Mr. Shubhendu Saxena, Mr. Rishabh Agarwal, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Aditya Singla with Ms. Cheshta Jetly, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J.: (ORAL)

[Court hearing convened via video-conferencing on account of COVID-19]

CM APPL. 34404/2021

1. This is an application filed on behalf of appellant no.1 for expedited hearing in the appeal.
2. For the reasons given in the application, although, all of them are not accurate [for example, the appellants were not represented on 19.11.2020], the prayer made in the application is allowed.

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3. With the consent of the counsel for the parties, the appeal has been

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taken up for hearing and final disposal, at this stage itself.

4. The instant appeal is directed against the order of the learned single judge, dated 18.07.2019, passed in W.P.(C.) 5063/2019.

4.1. The learned single judge's order dated 18.07.2019, which is brief, resulted in the dismissal of the writ petition filed by the appellants only, on the ground that, the Madras High Court, *vide* judgement dated 24.04.2019, passed in W.P.(C.) 11952/2019, had dismissed the said writ petition concerning the very same advertisement i.e., the advertisement dated 26.03.2019, which was impugned by the appellants in the writ petition, pending before the learned single judge.

4.2. Although, it appears, from a perusal of the impugned order, that, at some stage, the appellants had given an impression that the Bombay High Court had been dealing with the very same issue and allowed the writ petition, it was found that, the statement of appellants was not accurate.

5. Based on the fact that the Madras High Court had dismissed the challenge *qua* the impugned advertisement, the learned single judge dismissed the writ petition, from which the present appeal arises.

5.1 The learned single judge, however, placed a *caveat*, which was, that, in case the petitioners, either in the Madras High Court or the Bombay High Court, were to succeed, the order passed therein would be applicable to the appellants herein.

5.2 Counsel for the respondents, it appears, affirmed this position.

6. Mr. Pankaj Kumar, who appears on behalf of the appellants, argues that, the matter has not been examined on merits, by the learned single judge.

6.1 It is also his submissions that, the judgement(s) of the High Courts of co-equal jurisdiction, though persuasive, are not binding on the learned

single judge.

6.2. Mr. Aditya Singla, who appears on behalf of the respondents, cannot but accept, that the writ petition was not disposed of on merits.

7. We tend to agree with the submissions made by Mr. Pankaj Kumar, who appears on behalf of the appellants.

7.1. The judgement of the Madras High Court can only have persuasive value for this Court. The judgement is certainly not binding.

7.2. Therefore, the matter ought to have been dealt on merits.

8. Accordingly, the impugned order is set aside.

8.1. The matter is remanded to the learned single judge, to render a decision on merits in the writ petition.

9. The above-captioned appeal is, thus, disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

TALWANT SINGH, J

SEPTEMBER 30, 2021/pa

[Click here to check corrigendum, if any](#)