

CR-295-2023

Date of Decision :17.01.2023

Dinesh Kumar @ Dinesh Kumar Goyal

...Petitioner

versus

Gurpreet Singh and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Varun Mittal, Advocate for the petitioner.

B.S. Walia, J. (Oral)

1. Challenge in the petition is to order Annexure P-1 dated 20.09.2022 in Civil Suit No.881 of 2019 in case titled as Gurpreet Singh vs. M/s B.R. Enterprises pending before the court of Sh. Chetan Sharma, learned Civil Judge (Jr. Division)/ JMIC/ Barnala.

2. A perusal of order Annexure P-1 reveals that application was filed by the petitioner for discharge of Dinesh Kumar, wrongly mentioned as son of Surinder Pal, resident of Lakhi Colony Kamal Street No.3, Barnala on the ground that he was neither the owner of B.R. Enterprises nor partner of the said B.R. Enterprises against which the respondent-plaintiff had filed a suit for damages on account of injury sustained in an accident while working in the premises of M/s B.R. Enterprises. The learned Civil Judge, (Jr. Division)/JMIC, Barnala dismissed the application declining discharge of the petitioner-applicant from the case vide order dated 20.09.2022 on the ground that vide order dated 21.01.2022, the respondent-plaintiff had been allowed to amend the plaint by amending the name of father of Dinesh Kumar as Rajinder Pal instead

09.12.2019, defendant No.1 had appeared in person while as per zimni order dated 10.01.2020 it had been mentioned that defendant No.1 had appeared in person besides, Power of Attorney had been filed by Sh. C.S. Bhathal, Advocate, on behalf of defendant No.1 and that in the circumstances, it was apparent that the person who had appeared on 26.11.2019, 09.12.2019 and 10.01.2020 was defendant No.1 Dinesh Kumar and as Dinesh Kumar son of Rajinder Pal was defendant No.1, therefore, the applicant-petitioner Dinesh Kumar could not be ordered to be discharged.

3. Besides categorical averments in paragraph No.3 of the plaint with regard to the negligence of the petitioner leading to respondent No.1 sustaining injuries, have been made. Paragraph No.3 of the plaint is reproduced as under:

“That on dated 04.07.2019 when the plaintiff and his group members were doing the work of manufacturing poles in the factory of defendant no.1 then the wire use in poles of length 20 feet, the defendant no.1 in order to make profit got extend the length of wire from 20 feet to 30 feet through electricity motor and other instruments and when the labour was making poles then the motor got defected and motor started stopping and started giving kicks and then we labour people asked defendants to get repair the motor else there may be some shocks with the wire due to defect or the wire can also broke and there may be some loss to labour person then defendants got annoyed and started asking that you are not at your maternal home and asked to do the work as asked else you will be removed from the work and ultimately having no choice our group persons continued the work and due to the sudden shock of the motor, the wire broke which comes back and went through the corner of the eye of the plaintiff and a spark comes out and defendants came out of the office of the factory and with the help of labour persons brought the wire out with cutter and by which the plaintiff was much tortured and defendants asked to not to complaint regarding this to the police or to any other department and we will borne all the expenses of treatment of the plaintiff and will also financially help the plaintiff and in the incident of any mis-happening they will help the wife and

children of the plaintiff and also told that we admit our mistake that in case motor got repaired then this incident with the plaintiff must have been not happened. The plaintiff was taken to Dr. Prem Hospital where the stitches were put to the plaintiff and defendants told that there is not serious injury to you as such you can go home but pus was formed and it was treated at DMC and also got operated and water pipe was also put and due to pus the jaw was damaged which also had been operated on which Rs.60000/- was spent by the plaintiff and now also he has to go for checking and each and every time he has to spend Rs.5000/- and the eye-sight of the plaintiff was also effected and it can also happen that the eye-sight of the plaintiff may be lost forever. Since dated 4-7-2019 he is idle and is unable to do any work. And all the time his body remains tired and he is having problem in the jaw and daily an amount of Rs.100/- was spent on the medicine and I am a very poor person and by doing labour was maintaining my family of wife and children. I remained tortured physically and mentally due to the negligence of the defendants that in case of my death what will happen to my family. Defendants play with the life of labour persons and by threatening got the labour work done. When plaintiff talked with the defendants that due to your fault my life becomes hell it has become difficult for me for the treatment and the compensation be paid to me then defendants said that insects like you are daily born and die, we rich persons do not care of you and also told that in case you make any complaint against us then we will get you beat up through police and the same be withdrawn by you then plaintiff on dated 3.10.2019 got issued a registered notice through Sh. Bikramjit Singh Duggal Advocate Barnala upon defendants for payment of compensation but the defendants did not reply to the notice and on dated 16-10-2019 came to the house of the plaintiff at village Bhathlan and abused him and said that we will not pay any compensation you can do whatever you can and refused to pay the compensation. Hence the suit. Photocopies of bills and copy of notice and receipt of doctor are annexed herewith. Original bills can be produced as per the need.”

4. In view of the position noted above, no ground exists for interfering with the impugned order. Dismissed. Learned trial court is requested to expedite the trial and decide the case in accordance with law as expeditiously as possible.

(B.S. Walia)
Judge

17.01.2023