

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(219)

RSA No. 985 of 2014

Date of Decision : 01.05.2023

Shipra

...Appellant

Versus

Arya Girls Public School and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gaurav Jindal, Advocate for the appellant.

Ms. Ramandeep Kaur, Advocate for
Mr. Bhupender Singh, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

After arguing for some time, learned counsel for the appellant submits that keeping in view the settled principles of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 5348 of 2002 titled as ***M/S. Pearlite Liners Pvt. Ltd vs Manorama Sirsi***, decided on 06.01.2004, Civil Appeal No. 229 of 1956 titled as ***Dr. S.B. Dutt Vs. Union of Delhi***, decided on 03.09.1958 and ***Executive Committee of Vaish Degree College, Shamli Vs. Lakshmi Narain***, 1976(2) SCC 58, decided on 12.12.1975, the present appeal may kindly be disposed of having been not pressed as the suit filed by the appellant-plaintiff has been held not to be maintainable on the ground that the contract of service cannot be specifically enforced and only suit for damages is maintainable. Learned counsel for the appellant prays that liberty be given to the appellant-plaintiff to avail an appropriate

remedy to seek damages qua wrongful termination of his services so as to redress her grievance.

Learned counsel for the appellant submits that it may be clarified that any finding recorded by the court in the suit will not bind the parties as same were recorded despite holding the suit for specific performance not maintainable and the court trying the suit for damages, has to arrive at a decision independently keeping in view the evidence, which will come on record.

Keeping in view the fact that the courts below have held that the suit is not maintainable qua enforcing the contract of service, the present appeal is disposed of having been not pressed with liberty to the appellant-plaintiff to avail appropriate remedy. It is clarified that the said suit for damages in case filed, will be decided independently on the basis of the evidence, which will come on record without being influenced in any manner qua the findings recorded in these proceedings.

The present regular second appeal is disposed of with liberty as mentioned.

May 01, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No