

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR 4/2023

Date of decision: 06.01.2023

Ashwani Dixit @ Ashwani Kumar

.....Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vikram Singh, Advocate for the petitioner

Nidhi Gupta, J.

Prayer in this revision petition is for setting aside the order dated 16.11.202 (Annexure P-4) passed by Civil Judge (Senior Division) Faridabad vide which application of the petitioner/defendant no.1 and respondent no.2 under Order 7 Rule 11 CPC (Annexure P-2) has been dismissed.

Brief facts of the case are that respondent no.1/plaintiff filed a suit for recovery of Rs.24,67,968/- against the petitioner, and proforma respondents 2 and 3 herein, on the ground that while Manohar Lal, Assistant Lineman - husband of respondent no.2/defendant no.1 and father of

petitioner/defendant no.2 was unwell, then the said persons in collusion with respondent no.3-defendant no.3 obtained reimbursement of medical bills by using forged and fabricated documents. FIR No.692 dated 10.9.2016 was also lodged against the defendants. Said Manohar Lal died on 25.12.2014 due to illness. It is in the said Civil Suit that the petitioner's application u/Order 7 Rule 11 seeking rejection of plaint on the ground that plaintiff has no cause of action, has been dismissed.

The only submission made on behalf of the ld. Counsel for the petitioner is that the plaint does not disclose a cause of action. Learned counsel refers to para 6 of the plaint to submit that the purported cause of action cited by respondent no.1/plaintiff therein was that the defendants had 'extorted' Rs.31,67,698/- from the plaintiff by submitting forged and fabricated medical bills. It is submitted that no cause of action has accrued to respondent no.1/plaintiff as no 'extortion' has been effected by the defendants and neither has the plaintiff disclosed the date of alleged 'extortion'. It is submitted that accordingly, the plaint does not disclose a material cause of action and therefore, the learned Trial Court was in error in dismissing the petitioner's application under Order 7 Rule 11 CPC.

Heard learned counsel for the petitioner.

A perusal of the record shows that it is alleged that fake medical bills of late Manohar Lal, to the tune of Rs.31,67,968/- were got reimbursed by petitioner and respondent.no.2 in connivance with respondent no.3-Amit Kumar, UDC, Dealing Hand, DHBVN, as they got processed those fake bills and got them passed and verified from the office of SMO Dispensary of plaintiff at Faridbad and Gurgaon by appending their forged signatures and affixing fake rubber stamp of authorities concerned. An affidavit duly attested

by Notary, and written statement to this effect have also been submitted by the petitioner. Admittedly, FIR No.692 dated 10.9.2016 has been lodged by the plaintiff against the defendants in pursuance to which an amount of Rs. 7 lacs had been returned by the defendants to the plaintiff and an amount of Rs.24,67,968/- is still outstanding.

Learned counsel for the petitioner is unable to controvert the above facts. In view of the above admitted position, the fact that in the plaint the word ‘extortion’ has been used, is mere nomenclature, at best it is unhappy wording. In any event, at this stage it cannot be said that the plaintiff is having no cause of action as evidence has to be led in this regard.

In view of the above, finding no merit in this revision petition the same is hereby dismissed.

Pending application(s), if any, also stand disposed of accordingly.

06.01.2023	(Nidhi Gupta)
Joshi	Judge
Whether speaking/reasoned	Yes
Whether reportable	Yes/No