



2024:DHC:9751



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

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Date of Decision: 17.12.2024+ **RFA 896/2024****HARJEET SINGH KALRA**

.....Appellant

Through: **Mr. Mahender Pal Arora, Advocate**

versus

N RAJESH & ORS.

.....Respondents

Through: **None****CORAM: JUSTICE GIRISH KATHPALIA****JUDGMENT (ORAL)**

1. The appellant has challenged order dated 09.10.2024 of the learned trial court, whereby plaint of his suit for recovery of money was rejected under Order VII Rule 11 CPC on the ground that there is no cause of action. Having heard learned counsel for appellant, I do not find it a fit case to even issue notice of this appeal.

2. The appellant in his plaint pleaded that in compliance of orders dated 11.01.2019 and 29.03.2019 of the learned Additional Chief Metropolitan Magistrate, Bengaluru Karnataka, money (*now sought to be recovered through suit*) was transferred from his bank account into the bank accounts of the present respondents no. 1 and 2; and those orders were passed by the learned ACMM on the basis of certain investigations carried out by PS Cyber Crime, Bengaluru. In his plaint, the appellant sought return of the

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said amount alongwith interest and damages. The appellant in his plaint also sought directions to the present respondent no. 3 to defreeze his bank accounts, which had been frozen during investigation.

3. As mentioned above, the learned trial court opined that there is no cause of action. So, the plaint was rejected by way of order impugned in this appeal.

4. During arguments, learned counsel for appellant admitted that orders dated 11.01.2019 and 29.03.2019 of learned ACMM Bengaluru have not been challenged by the appellant. Also admittedly, the appellant has not challenged the freezing of his bank accounts before the court of competent jurisdiction. Learned counsel for appellant argued with the help of certain judicial precedents the settled legal position that where a person has civil as well as criminal remedy, he can pursue both simultaneously. Learned counsel for appellant also referred to Section 9 CPC to contend that jurisdiction of Civil Courts is not barred unless there is a specific bar in some statute. Further, learned counsel for appellant also submitted that the orders dated 11.01.2019 and 29.03.2019 of ACMM are interlocutory orders, so the same are not amenable to revisional jurisdiction of the Court of Sessions. No other argument has been advanced.

5. As regards the legal propositions submitted on behalf of appellant there is no dispute. But in the present case there is no dispute as regards the

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jurisdiction of the Civil Court. The dispute in the present case is lack of cause of action.

6. To repeat, the appellant has not challenged orders dated 11.01.2019 and 29.03.2019 before the court of competent jurisdiction. Not only this, what appears from the said orders is that the transfer of money was by way of *superdari* out of the bank accounts frozen during investigation by PS Cyber Crime. Apparently, the respondents no. 1 and 2 also filed before the ACMM the indemnity bonds, which led to transfer of the said money.

7. It appears that the appellant is trying to circumvent the judicial orders dated 11.01.2019 and 29.03.2019 of ACMM Bengaluru through these proceedings.

8. Similarly as regards prayer to defreeze the bank accounts of the appellant, the bank accounts were frozen in the course of investigation and those orders have not been challenged before the court of competent jurisdiction.

9. I am unable to find any infirmity in the impugned order, so the same is upheld and the appeal is dismissed.

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GIRISH KATHPALIA, J.

DECEMBER 17, 2024/as

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