

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

104

CWP-21943-2019

Date of Decision : January 17, 2025

MAA VAISHNO DEVI TRUST & OTHERS -PETITIONERS

V/S

STATE OF PUNJAB & OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vikas Kuthiala, Advocate
 for the petitioners.

Mr. Pardeep Bajaj, D.A.G., Punjab.

Mr. Charanpuneet Singh, Advocate (Through V.C.)
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. The instant writ petition encompasses a prayer for setting aside the order dated 15.07.2019 (Annexure P-7), whereby, the petitioners have been summoned by the District Level Micro and Small Facilitation Council Ludhiana. The bedrock for drawing of the impugned order is constituted by the reference filed by the respondent No.3 under Section 18 read with Sections 15 to 17 of the Micro, Small and Medium Enterprises Development Act, 2006, thereby claiming payment of ₹ 2,24,41,033/-.

2. The thrust of the arguments advanced by the learned counsel for the petitioners is that, since the respondent No.3 had, prior to institution of the reference (supra), already instituted a civil suit before the learned civil court concerned on the same cause of action, therefore, the petitioners cannot be subjected to, on the same cause of action, face litigation before two different forums. The respondent No.3 could have invoked the

jurisdiction of either the council concerned, or, the civil court concerned. Once the respondent No.3 had approached the civil court, hence the subsequently instituted reference (supra) was not maintainable.

3. This Court has heard the arguments advanced by the learned counsels for the parties and also perused the record. For the reasons to be assigned hereinafter, this Court does not find any merit in the instant writ petition.

4. A meticulous survey of the record available before this Court makes vivid display that, owing to lack of territorial jurisdiction, the civil court concerned had, through drawing the order dated 05.11.2022, returned the civil suit filed by the respondent No.3. The relevant extract of the order dated 05.11.2022 is reproduced hereunder:-

“8. The cause of action arose to the plaintiff when he was doing the construction work at Moga. Merely because agreement was executed at Ludhiana does not make the territorial jurisdiction at Ludhiana. Since, all the defendants reside at Moga and the work was also done at Moga, the cause of action arises at Moga and suit is to be filed at Moga. Accordingly, the present application is allowed and the plaint is rejected to be filed in the competent court of territorial jurisdiction. Original documents be given to the plaintiff against proper receipt, photocopies of these documents be retained in the judicial file and the same be consigned to the record room.”

5. This Court posed a specific query also to the learned counsel for the petitioners as to whether, post the drawing of the order dated 05.11.2022, the respondent No.3 filed any civil suit before the court of competent jurisdiction. This query has been fairly answered in negative by the learned counsel for the petitioners.

6. Consequently, when the initial remedy availed by the respondent No.3 was not taken to a logical end, rather was rejected by the civil court concerned owing to lack of territorial jurisdiction, therefore, the submissions made by the learned counsel for the petitioner do not hold good for this Court to set aside the impugned summoning order.
7. In summa, the instant writ petition is **dismissed** and the impugned order is upheld.

January 17, 2025
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No