

**IN THE COURT OF DISTRICT JUDGE-01, SOUTH EAST
DISTRICT, SAKET COURTS, NEW DELHI**

CS DJ-148/23

Ashok Kumar Tiwary

..Plaintiff

Versus

Delhi Chinmaya Sewa Trust

..Defendants

12.07.2024

ORDER:

1. The matter has come up for arguments on application under Order VII Rule 11 CPC.
2. Ld. counsel for defendants has filed the present application on the ground that there is no cause of action shown in the present plaint and the same deserves to be dismissed. He has submitted that once resignation letter has been issued by plaintiff and it has been accepted by defendants, the same cannot be taken back and also cannot be declared as null and void. He has relied upon the following three judgments :
 - a) **Shriram Manohar Bande Vs. Uktranti Mandal & Ors., in SLP(C) No.21401/2022.**
 - b) **Naranay Shankar Upadhyaya Vs. Rajasthan Rajya Vidhyut Prasaran Nigam Limited Through its Chairman and Managing Director ..., 2023 SCC OnLine Raj 374.**
 - c) **Bijender Yadav Vs. Union of India and Anr., W.P.(C) 1835/2021.**

d) The Govt. of NCT of Delhi & Ors. Vs. Kamlesh Rani Bhatla, in Civil Appeal No.1927/2023.

3. Per contra, Ld. Counsel for plaintiff has submitted that the case of the plaintiff is that the plaintiff was forced to resign from his position and he was forced to sign a pre-drafted letter and resignation was not given by his free will. In view of same, he submits that it is a matter of disputed facts whether the resignation letter was voluntary or it was a forced resignation. He further submitted that once there is a disputed question of fact, the plaint cannot be rejected under Order VII Rule 11 CPC. In view of same, he further submits that the application be dismissed and the trial be conducted so that plaintiff can prove his case. He has relied upon following judgments :

a) **Eldeco Housing and Industries Limited Vs. Ashok Vidyarthi and Others, 2023 LiveLaw (SC) 1033.**

b) **Kum. Geetha, D/o Late Krishna & Ors. Vs. Nanjundaswamy & Ors., in Civil Appeal No.7413/2023.**

c) **G. Nagaraj & Anr. Vs. B.P. Mruthunjayanna & Ors., 2023 LiveLaw (SC) 311.**

d) **Capital Land Builders Pvt Ltd. & Ors. Vs. Shiv Kumar Jindad & Ors., CM(M) 69/2022.**

4. Submissions heard. Application perused.

5. Perusal of the plaint reveals that plaintiff was working with defendants no.1 organization from 31.07.2015 in his current position and on 02.11.2023, a resignation letter was issued by plaintiff which plaintiff claims has been forcibly taken from him. From a reading of the plaint, it is revealed that the case of the plaintiff is that he was asked to forcibly resign and the resignation was not a voluntary

resignation and as such, present suit for declaring the resignation as null and void has been filed. Perusal of the judgment of **Shriram Manohar Bande (supra)** reveals the same is regarding interpretation of Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 197 and Rules framed thereunder.

6. The present suit is arising out of contractual employment which is not governed by the said rules therein and the question which needs to be proved by way of trial has been raised by plaintiff. As far as the judgments cited by Ld. Counsel for the defendants are concerned, the same are in relation to Central Civil Services Conduct Rules 1964 and not regarding a contractual employment and hence, cannot be relied upon.
7. Thus, what appears is that in the present case, some cause of action has been shown by plaintiff. Whether the said cause of action is sufficient to merit judgment is not a question which the court is called upon to decided at this stage of hearing. At the stage of application under Order VII Rule 11 CPC, what needs to be seen is that if any cause of action has been shown in the plaint and if so, the plaintiff is entitled to trial. As such, application under Order VII Rule 11 CPC cannot be allowed at this stage and the same is dismissed.

**Announced in the open
Court on 12.07.2024**

**(RAHUL BHATIA)
District Judge-01(SE),
Saket Courts, New Delhi.**