

PREETI TRIPATHI Vs. RESIDENT DOCTORS ASSOCIATION

23.08.2023

Present: Sh. Disha Singh, Ms Nidhi Sharma and Mr. Mohit, Ld. Counsel for the plaintiff

Sh. Sushant Nanda, ld. Counsel for D-1 through V.C.

Sh. Shivam Sharma and Dr. Vipin Kumar, for D-1 in person

Memo of appearance has been filed on behalf of Defendant no. 1.

Ld. Counsel appearing for D-1 has addressed arguments on the application u/o 39 rule 1 & 2 CPC but has also sought time to file a detailed reply to the application seeking interim injunction as also to file written statement to the suit. It needs a highlight that both the defendants were served on 19.8.2023. Written statement be filed within 30 days from the date of service.

Defendant no. 1 is the President of Resident Doctor's Association with whom an agreement was entered into by the plaintiff for running a 24 hours cafeteria at doctors hostel premises DDU Hospital, Hari Nagar, New Delhi. The agreement was for a period of 5 years commencing from 1.08.2019. It is the contention of the plaintiff that without any reason, vide notice dated 16.06.2023, the cafeteria run by the plaintiff has been closed by defendant no. 1 w.e.f 16.06.2023 for an indefinite period. Consequently, the present suit has been filed against defendant no.1 seeking specific performance of the agreement dated 1.08.2019. Defendant no. 2 is DDU

Contd. 2

hospital who is sought to be served through 'Authorised Person' of DDU as mentioned in the memo of parties. Summon on behalf of defendant no. 2 has also been received by the same person who received summon on behalf of defendant no. 1. It is however the contention of the plaintiff that permission to run the cafeteria was granted by Resident Doctor's Association vide agreement dated 1.08.2019 and not by DDU Authorities. Consequently, in view of the averments of the plaint D-2 is not a necessary party and accordingly D-2 stands deleted from the array of the parties. **Amended memo be filed.**

During the course of the arguments, ld. Counsel for D-1 submits that number of complaints have been received against the plaintiff which is the reason that closure notice dated 16.06.2023 was issued.

Perusal of under lying contract reveals that in case differences arise out of the contract or in connection with the contract, the matter had to be referred to a Mediator who was to be appointed with the consent of both the parties and whose decision was to be final. However, the closure notice dated 16.6.2023 has been passed by the Resident Doctors Association apparently without having recourse to the Mediation process. Consequently, parties are directed to appear before the Mediation Centre, Tis Hazari Court on 26.08.2023 at 2: 00 P.M. Till the pendency of the Mediation process, D-1 is restrained from permitting any other entity/person to operate the cafeteria from the premises from which the plaintiff was operating the cafeteria. Ld. Counsel for the plaintiff has also pressed for permission to re-open the

cafeteria. However, in view of the fact that the cafeteria was closed vide notice dated 16.6.2023 whereas the plaintiff approached the court after two months, there is no ground to permit the plaintiff to re-open the cafeteria neither has any such interim prayer been sought.

Put up on 08.09.2023 at 2:00 P.M for awaiting report from the Mediation Centre. A copy of the order be given dasti to both the parties.

(Dr. Ajay Gulati)
ADJ-02, WEST
23.08.2023(s)