

CS 58695/16

**RATTAN KUMAR AGGARWAL Vs. CHAUDHARY AISHI RAM BATRA
PUBLIC CHARITABLE TRUST AND ORS.**

23.09.2022

Present : Ms. Sonia Sachdeva, counsel for the plaintiff.
Sh. Vipin Kumar Dwivedi, counsel for the defendants.

Counsels for the parties have filed respective set of questions. Counsels have mentioned that these set of questions require to be answered by an expert witness.

Record perused. Plaintiff has instituted present suit seeking damages from the defendants alleging that the death of the patient was caused due to medical negligence. Deceased was the wife of plaintiff no.1 and mother of defendant no.2 & 3. By means of an application under Section 151 of CPC, plaintiffs sought directions that expert opinion from Director, AIIMS may be sought in respect of medical negligence. Although the application has been filed under Section 151 of CPC but in sum and substance, it appears to be an application under Order XXVI Rule 10A of CPC. On being enquired, counsel for the plaintiffs has mentioned that no fee is required to be fixed for the Director, AIIMS as he is bound to give his opinion, in case, the court directs him to do so. Before disposing of the present application, I deem it fit to issue notice to Director, AIIMS. Notice of the application be issued upon filing of PF.

Put up on 09.01.2023 for arguments on the said application under Section 151 of CPC.

**(Sudhanshu Kaushik)
ADJ-02 & Waqf Tribunal
NDD/PHC/ND/23.09.2022**