

(2016) 04 DEL CK 0198

In the Delhi High Court

Case No : Civil Revision Petition No. 119 Of 2012

Gaussian Netwrok Pvt Ltd

APPELLANT

Vs

Monica Lakhanpal & Anr

RESPONDENT

Date of Decision : 21-04-2016

Acts Referred:

Constitution Of India, 1950 — Article 19(1)(g)
Code Of Civil Procedure, 1908 — Order 36

Citation : (2016) 04 DEL CK 0198

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Dr.A.M.Singhvi, Aaditya Vijaykumar, Abhimanyu Chopra, Avishkar Singhvi, Sumedha Dang, Sanjeev Sindhvani, Pramod Kumar Dubey, Vaibhav Gaggar, Shiv Chopra, Megha, Peeyush Kalra, Ankit Khurana

Final Decision : Disposed Of

Judgement

Indermeet Kaur, J

Both the parties are aggrieved by the order dated 17.09.2012.

This order was passed in a petition filed under Order 36 of the Code of Civil Procedure (hereinafter referred to as the "Code") seeking an opinion of the Court a contingent on which would be the finalization of an agreement between the two parties.

Record discloses that petitioner No. 1 is a company registered under the Companies Act. It was start-up company and was proposing through professional representatives to conduct an on line business to carry out the operations of respondent No. 1 who wanted to invest money in the company of the petitioner in order that she could earn profits from the said business. The petitioner had proposed launching a website offering six

games namely chess, billiards, rummy (thirteen/twenty six card), texas holdem poker (five card poker), bridge and snooker; the petitioners were to

provide a social game platform where people would play against each other. Contention before the Trial Court being that these are all games of skill

as there is a greater preponderance of skill over chance. The investments made by respondent No. 1 in the petitioner company would grant her equity

interest but the agreement inter-se the parties had stipulated that release of payment by respondent No. 1 would be contingent on respondent No. 1

being satisfied about the legalities of the games to be launched on the said website.

Accordingly both the parties had sought an opinion of the Court on the following queries:-

(i) Whether games of skill are considered "business activity", protected under Article 19 (1) (g) of the Constitution of India.

(ii) Whether the Games of Rummy, Chess, Gold, Poker, Bridge and Snooker are games of skills?

(iii) Whether there is any restriction on playing the aforementioned games of skill with stakes on the websites making profit?

(iv) Whether wagering and betting on games of skill make the activity "Gambling"?

(v) Whether there can be restriction on advertising and promoting the website offering the aforesaid games of skill?

(vi) Can the banks refuse to provide normal banking services to the websites once it is determined that the Company is conducting normal

business activities?

(vii) Can the Company or its Directors, agents, players etc be held liable under any penal laws as long as they are only offering games of

skill which are declared to be normal business activities?

All these queries were answered against the petitioner. The Court was of the view that the aforesaid games involved betting and thus being gambling

activities they could not be categorized as games of skill. Petition was disposed of in the above terms.

Learned senior counsel for the petitioner submits that the judgment is in the teeth of law laid down by the Apex Court in the judgment reported as

(1996) 2 SCC 226 Dr. K.R. Lakshmanan Vs. State of Tamilnadu and another as

also another judgment of the Apex Court reported as (1968) 2 SCR

387 State of Andhra Pradesh Vs. K. Satyanarayana and Others. Submission being that where a competitive skill is involved along with a substantial degree of exercise of skill, it cannot be termed as a "gambling activity".

A copy of an RTI information has also been placed on record, obtained from the Government of Nagaland, Department of Justice and Law wherein

the answer to the query was that the games of poker, rummy and bridge involve skill and are not gambling as per the provisions of the Gambling Act,

1867. Submission again being reiterated that the impugned order has proceeded on a mis-appreciation of law.

Be that as it may, Dr. Abhishek Manu Singhvi, learned senior counsel for the petitioner submits that he does not wish any academic question to be

answered and at this stage prays that permission may be granted to the parties to withdraw their reference which they had made before the Trial

Judge.

Permission is accordingly granted to the petitioner to withdraw this revision petition i.e. C.R.P. No.119/2012 titled as "Gaussian Network Pvt. Ltd.

Vs. Monica Lakhanpal & Anr". Accordingly, the observations made by the Trial Judge in its order dated 17.09.2012 i.e. in Suit No. 32/2012 titled as

"Gaussian Network Pvt. Ltd. Vs. Monica Lakhanpal & Anr" no longer survive.

Petition disposed of as having become infructuous.