

JUDGMENT SHEET.
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD.

Civil Revision No.83 of 2015

The Drug Regulatory Authority of Pakistan through its C.E.O., Islamabad

Versus

M/s Scotmann Pharmaceuticals, Islamabad

Petitioner By : Raja M. Hanif Satti, Advocate
Shoaib Ali Khan, Assistant Director
(Legal) DRAP.

Respondent By : Mr. Amjad Hameed Ghauri, Advocate

Date of Decision : 29.04.2019

AAMER FAROOQ, J. - The facts, in brief, are that the respondent filed a suit against the petitioner. In the referred suit, the petitioner made an application under Order VII Rule 11 C.P.C. which was allowed and the plaint in the suit, filed by the respondent, was rejected. Appeal was preferred by the respondent which was allowed vide impugned order dated 06.11.2014, hence the instant petition.

2. Learned counsel for the petitioner, *inter alia*, contended that the Hon'ble Supreme Court of Pakistan in a recent matter pending before it in a Human Rights Case No. 2858/2006 directed that all such matters are to be placed before the Appellate Forum i.e. Board of Drug Regulatory Authority, hence the instant petition be disposed off accordingly.

3. Learned Counsel for the respondent, *inter alia*, contended that suit filed by the petitioner is not covered within the scope of appeal, hence the matter could not be referred to the Appellate Board.

4. Learned counsels for the parties have been heard and the documents placed on record examined with their able assistance.

5. The facts leading to filing of the instant appeal have been mentioned hereinabove, therefore, need not to be reproduced.

6. Learned Appellate Court while accepting appeal of the respondent remanded the matter to the learned Trial Court to proceed with the matter in accordance with law. In this behalf, it was observed that the petitioner is at liberty to challenge jurisdiction of the Civil Court. The august Apex Court in a Human Rights Case No. 2858/0006, dated 03.08.2018, observed as follow:-

"5. It is pertinent to mention here that under the law an appellate forum has been provided. Anybody aggrieved of the decision of DRAP in the above matters may challenge the same before the appellate forum. With consensus of all, we direct that instead of approaching the Courts of ordinary jurisdiction i.e. civil courts or High Courts in original jurisdiction or even before agitating the matters in the constitutional jurisdiction of the High Courts, the aggrieved parties shall avail all remedies available to them under the statute."

Bare reading of the above order of the august Apex Court shows that observation was made with respect to the parties in the matter before august Apex Court and observation was not in rem. However, as observed by the learned Appellate Court, the petitioner may challenge jurisdiction of the learned Trial Court on any ground including the fact that the matter is to be heard by the Appellate Board. It is observed that if such objection regarding the bar of jurisdiction or the matter falling within domain of Appellate Board is agitated, the learned Trial Court shall decide it in accordance with law.

7. In view of above, the instant petition is without merit and is accordingly **dismissed.**

**(AAMER FAROOQ)
JUDGE**

M.Shah/.