



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 26TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

REGULAR SECOND APPEAL NO. 1835 OF 2007 (DEC/INJ-)

BETWEEN:

MARTIN LUTHER EDUCATIONAL TRUST
REP. BY ITS PRESIDENT
JAYASHEEL S/O. MARTIN LUTHER,
AGED ABOUT 53 YEARS,
R/O. DEENABANDHU COLONY,
KARWAR ROAD, HUBBALLI - 580 029.

...APPELLANTS

(BY SRI. SANJAY S. KATAGERI, ADVOCATE)

AND:

BASEL MISSION
HIGHER EDUCATION CENTRE DHARWAD,
BY ITS PRESIDENT,
RT. REV. J. PRABHAKARA RAO,
HALIYAL ROAD, DHARWAD - 580 001.

...RESPONDENTS

(BY SRI. HARSH DESAI, ADVOCATE)

THIS RSA IS FILED UNDER SECTION 100 OF CPC, PRAYING TO ALLOW THE TOP NOTED APPEAL BY SETTING ASIDE THE JUDGMENT AND DECREE DATED 17.04.2007 IN R.A.NO.79/2006 PASSED BY THE I ADDITIONAL CIVIL JUDGE (SR.DN.) HUBBALLI, REVERSING THE JUDGMENT AND DECREE DATED 03.06.2006 IN O.S.NO.371/2004 PASSED BY THE PRINCIPAL CIVIL JUDGE (JR.DN.) HUBBALLI AND CONSEQUENTLY ALLOW SUIT O.S.NO.371/2004, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS RSA APPEAL HAVING BEEN HEARD AND RESERVED ON 12.11.2025, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, COURT DELIVERED THE FOLLOWING:



JUDGMENT

(PER: THE HON'BLE MR. JUSTICE C M JOSHI)

This appeal is filed by the plaintiff-trust assailing the reversal of the judgment and decree passed by the Trial Court in O.S.No.371/2004 dated 03.06.2006 by the First Appellate Court in R.A.No.79/2006 dated 17.04.2007.

2. The factual matrix i.e. relevant for the purpose of this appeal is summarized as below:

- i) The appellant-Trust filed a suit for declaration and consequential relief of injunction with following prayer:

"a) That the Hon'ble Court may kindly decree that the plaintiff trust is the rightful management of the Basel Mission English Medium School, Hubli and the defendants have no right of whatsoever nature to claim as the management of such institution and consequently the Hon'ble Court may kindly grant permanent injunction to restrain them from interfering for the peaceful administration of the institution by the plaintiff in the interest of justice and equity;



- b) Accordingly, a decree may be passed;*
 - c) Any other reliefs that the Court deems fit may kindly be granted in the interest of justice and equity."*
- ii) It was contended that the appellant is a trust registered under the ***Bombay Public Trust Act, 1950¹*** with registration No. E718 (DAR) in the year 1994 and is managing the educational institution by name Basel Mission English Medium School at Hubli.
- iii) The said school was established in the year 1971 with great and sincere efforts of late Martin Luther Bhasme and the same was managed till his death and thereafter, it was registered in the name of Martin Luther Educational Trust in the year 1994. The respondent, which is also a trust registered under the BPT Act, without any authority has started interfering in the management of the school run by the appellant-trust in and around the

¹ Hereinafter referred to as 'BPT Act'



year 1986. A change report was submitted to the Assistant Charity Commissioner (Competent Authority under the BPT Act), Belgaum and the same was approved in PTR sheet and therefore, the appellant- trust had to file the suit against the respondent-trust. After the trial, the authorities of the Department of Education of the Government have recognized the plaintiff trust as it is in the management of the said school and therefore, the appellant-trust sought the reliefs as mentioned (*supra*).

3. The defendants appeared and filed a written statement denying the plaint averments. *Inter alia* they contended as below:

- i) The defendants contended that the plaintiff Martin Luther Educational Trust is not at all a trust and presumably it has come into existence only in the year 1994. The school had been started more than 30 years back and therefore, the plaintiff trust do not have any manner of right whatsoever in the



institution. It is the defendant trust, which is managing the affairs of the Basal Mission Higher Education English Medium School at Hubballi and it was registered in Reg.No.E39/DWD under the BPT Act.

- ii) The defendants also contended that the five trustees of the plaintiff have got their name registered on the basis of the orders passed by the Assistant Charity Commissioner, Belgaum in Enquiry No.52/2000 which is a fake one and the said enquiry nowhere connected to the plaintiff-institution. Therefore, it was alleged that documents have been fabricated by the plaintiff.
- iii) They contended that the wife of one of the trustee i.e. Martin Luther Anandappa Bhasme was appointed as principal of the Basel Mission English Medium School in the year 1986 by the defendant Trust and she has recognized the defendant to be in the management of the school. Earlier to it, the father of Martin Luther Bhasme was the principal



of the said school and he was responsible for running of the said school under the defendant Trust. It is contended that nowhere the name of the plaintiff Trust appears in the records of the Education Department and it was all along the defendant Trust which is recognized as the institution which is running the said school.

4. It was alleged by the defendant that it is the plaintiff who is interfering in the management of the said school and now he is claiming that he is managing the said school under the plaintiff Trust. Therefore, they sought for dismissal of the suit.

5. On the basis of the above pleadings, the following issues were framed by the Trial Court:

- "i) *Whether the plaintiffs proves that Basel Mission English Medium School at Hubli is run by it?*
- ii) *Whether the plaintiff proves that the defendants are illegally challenging its right to manage the Basel Mission English Medium School of Hubli and interfering with the management of the said school?*



- iii) Whether the plaintiff is entitled for the relief of declaration as sought for?*
- iv) Whether the plaintiff is entitled for the relief of permanent injunction as sought for?*
- v) What order?"*

6. The president of the plaintiff Trust examined as PW.1 and one witness was examined as PW.2. Ex.P.1 to Ex.P.33 were marked. On behalf of the defendants, one witness was examined as DW.1 and Ex.D.1 to Ex.D.22 were marked.

7. After hearing the arguments, the Trial Court answered issue Nos.1 to 4 in the ***affirmative*** and decreed the suit as prayed for.

8. Being aggrieved by the same, the defendant approached the First Appellate Court in R.A.No.79/2006. The First Appellate Court after hearing both the parties, by the impugned judgment, allowed the appeal and dismissed the suit. Being aggrieved, the plaintiff is before this Court in second appeal.

9. This Court while admitting the appeal has framed the following substantial question of law.



"Whether the appellate Court is justified in reversing the judgment of the trial Court?"

10. The arguments by learned counsel appearing for the appellant and the respondent were heard.

11. Learned counsel for the appellant would submit that the school started in the year 1974-1975 and it was run by the principal Martin Luther Bhasme. The property which was owned by Martin Luther Bhasme and his family was used for the said school and he managed the said school. Then in the year 1994, the plaintiff Trust was formed and the Trust began managing the said school. It was contended that in the year 1984 a high school was also granted and it was also managed by the plaintiff. In this regard, the learned counsel appearing for the appellant points out to Ex.P.9 to contend that the change report submitted by the defendant was without the consent of the plaintiff. He argues that the said change report dated 03.09.1986 unilaterally stated that the Basel Mission English Medium Primary School was to be added as one of the institutions run by the defendant and the said change report submitted to the Assistant Charity Commissioner under the BPT Act was illegal. Therefore, the said



Ex.P.9 being an illegal document could not have been relied by the concerned Competent Authority under the BPT Act to enumerate the school to be under the management of the defendant. Secondly, he submits that the Ex.P.2, which is the change report maintained by the Assistant Charity Commissioner clearly mentioned that under the inquiry No.52/2000 dated 08.06.2000 the Basel Mission English Medium School was listed under the educational institutions run by the plaintiff Trust. Therefore, he contends that the Competent Authority under the BPT Act had recognized that the said school was being run by the plaintiff Trust. Further, it is submitted that except the change report relied by the defendant (Ex.P.9), there is nothing else to show that the said school was run by the defendant. He relied on the reasoning that was adopted by the Trial Court in its judgment and submitted that the impugned judgment of the First Appellate Court is not sustainable in law. It is further the case of the learned counsel for the appellant that he relies on Ex.P.2 only to show that the plaintiff Trust is registered under the BPT Act. But he do not rely on the endorsement in the said document concerning enquiry No.52/2000. However he submits that Ex.P.1, which is the certificate of registration issued by the



Assistant Charity Commissioner would be a relevant document in this regard. He also relies on the CTS extract pertaining to CTS No.209/B/7 pertaining to the year 1975 which show the name of the family of Martin Luther Bhasme to contend that the said property belongs to the PW.1.

12. *Per contra*, the learned counsel appearing for the respondent submits that the defendant Trust has come into existence in the year 1954 and since then, it is running various educational institutions under the name Basel Mission. He points out that there is no reason as to why the plaintiff Trust or Martin Luther Bhasme had adopted the name of Basel Mission, when he started the said school in the year 1971. It is pointed out that Ex.P.9 is the proceedings of the meeting of the Board of Trustees of the defendant and in the year 1986, it submitted a change report to the Assistant Charity Commissioner to list the Basel Mission English Medium School as one of the institutions run by it. It is submitted that the father of PW.1, Anandappa Bhasme was the first principal of the said school and later his daughter-in-law was appointed as the principal of the school in the year 1986. In this regard, he points out that she had submitted a



requisition for recognition of the school to the Government Authorities as per Ex.D.13, wherein she had clearly mentioned that the said school is under the management of Basel Mission Higher Education Center, Dharwad that is the defendant. He further points out that as per Ex.D.15, Mrs. S.J. Bhasme, i.e. the wife of PW.1, had written a letter to the defendant Trust expressing her gratitude for appointing her as the principal of the school. It is submitted that despite the PW.1 has refused to recognize the signature of his wife on the said document, he points out that the Ex.D.13 could not have been denied by her.

13. Of course, Ex.D.13 appears to be under the signature of wife of PW.1, the Ex.D.15 cannot be verified.

14. Further he submits that apart from these, the Department of Education of the Government has corresponded from the year 1976 and it showed that it was under the management of the defendant Trust. In this regard he relies on Exs.D.12, D.11, D.7, D.8, D.9 and D.10, and such other documents which show that the said school was under the management of the defendant Trust. Lastly he points out that the Deputy Director of Public Instruction of Education



Department, Dharwad dated 07.05.2005 mentioned in detail the manner in which the dispute started and ultimately, the report concludes saying that the school is under the management of the defendant Trust. So far as Ex.P.2 is concerned, he draws the attention of this Court to Ex.D.4, which clarifies that there is no such inquiry No.52/2000 pertaining to the plaintiff's Trust and the school. But it is a suspicious entry in Ex.P.2. He points out that Ex.P.2 cannot be held to be a genuine document when contrary documents are available at Ex.D.4.

15. For above reasons, he submits that the conclusions reached by the First Appellate Court are justifiable and though a substantial question of law is framed by this Court, in fact there is no such a substantial question of law that arises and hence, he seeks dismissal of the appeal.

16. Learned counsel appearing for the appellant has submitted that the application filed under Order 41 Rule 27 R/w Section 151 of CPC be allowed and the additional documents be looked into.



17. Before going to the merits of the case, let me consider the application filed by the appellant under Order XLI Rule 27 of CPC. The provisions of Order XLI Rule 27 of CPC provide a limited window for the parties to present any additional evidence at appellate stage. It is worth to note that the scope for production of the additional evidence in an appeal is restricted by Rule 27 of Order XLI. The said Rule 27 reads as below:

27. Production of Additional Evidence in Appellate Court

(1) *The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if—*

(a) *the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or*

[(aa) *the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or]*



(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,

the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.

18. The affidavit filed in support of I.A.No.1/2025 states that the property where the School is being run was taken on lease by deceased Martin Luther **Anandappa** Bhasme. However due to inadvertence and non availability of the original registered lease deed, executed by the owner of the property in favour of Martin Luther Bhasme dated 21.09.1978, it was not produced. The affidavit states that the said Martin Luther Bhasme constructed a building in the property that is C.T.S.No.209/B/7 and he obtained a completion certificate from the Hubballi-Dharwad Municipal Corporation on 31.01.1979. It is the building where the school is being run by the appellant. Therefore, the



completion certificate as well as the lease deed are the important documents. It is stated that these documents were not available with the appellant at the time of the trial, and later it was traced but since appeal was filed at Bengaluru Bench and it was being transferred to the circuit Bench at Dharwad, the application could not be filed. Therefore, it states that there is delay and the documents are pivotal importance for the appellant and therefore, the application be allowed.

19. The respondent has filed objections contending that the reasons assigned by the appellant for production of the document at this belated stage, is not properly explained and the explanations are contradictory. Therefore, they have sought for dismissal of the application.

20. the judgment of the Hon'ble Apex Court in the case of ***Union of India vs. Ibrahimuddin and another***², lays down the principles, under which the application filed under Order XLI Rule 27 of CPC needs to be considered. It has clarified that the production of the additional evidence is not as of right and the reasons assigned should fall within the scope of Rule 27. As

² (2012) 8 SCC 148



noted above, Rule 27 provides a limited window for the parties to present an additional evidence. If we examine the affidavit filed in support of the application, it is evident that the diligence of the appellant is not fully explained. The appellant could have produced the certified copy of the lease deed, as it is a registered one. Therefore, the explanation for non-production of the lease deed at the earliest point of time is not acceptable. So far as the building completion certificate is concerned, it was issued in the year 1979 and a simple sentence in the affidavit that due to inadvertence, he could not produce and that he was not in possession of it, would not suffice. Therefore, the only ground that remains to be considered under Rule 27 would be whether these documents are of importance for a just adjudication of the matter.

21. The relief claimed by the appellant is for declaration that the school is being run by the appellant's Trust. The title to the property and who constructed the building is not of any importance in the case. Both the Trial Court and the First Appellate Court have already noted that the C.T.S. extract produced shows that the property stands in the name of the



Martin Luther Bhasme. Therefore, the lease deed and the building completion certificate are not necessary for the just decision in this appeal. Resultantly, the application is devoid of any merits.

22. Coming to the merits of the case, it is necessary to note that the Trial Court went under the competence of the DW.1 to resist the suit. Much of the discussion by the Trial Court is in respect of the competence of DW.1. It notices that the defendant is a Trust and the DW.1, who is also the signatory to the written statement. The Trial Court observes that there is nothing on record to show that DW.1 is authorized to represent the defendant and depose on its behalf. Therefore, it holds that the evidence tendered by DW.1 is not sustainable in law and therefore, it holds that the testimony of PW.1 and PW.2 is acceptable and as such, it decreed the suit.

23. The First Appellate Court in its judgment notices that the DW.1 is a reporting trustee as may be found from the documents produced by the plaintiff at Ex.P.9. The DW.1-Paul S. Dhavale was a reporting trustee and he was one among the participants of the meeting, which resulted in submission of a



change report to the Assistant Charity Commissioner under the BPT Act. The plaintiff contends that the said change report is not valid on the ground that the inclusion of the Basel Mission English Primary School could not have been done by the defendant-Trust. However, the Assistant Charity Commissioner under the BPT Act has recognized the change report and has made necessary changes in the Public Trust Register (PTR) and approved it. Therefore, when DW.1 is shown to be one of the trustee in the records of the Assistant Charity Commissioner, the objection raised by the Trial Court was not sustainable. So also the PTR extract produced by the defendant at Ex.D.2 also depict that he was one of the trustee. It may be true that when he deposed before the Court, he may not have continued as a trustee, but he was well within the knowledge of the events, which took place and therefore, his testimony becomes relevant and acceptable.

24. In that view of the matter, the preliminary contention that the DW.1 was incapable of deposing on behalf of the defendant was rightly considered by the First Appellate Court.



25. The perusal of the records produced by the plaintiff are worth to be noted. The Martin Luther Educational Trust, which is the plaintiff herein, was registered as a public Trust for the first time on 05.08.1994 as evidenced by Ex.P.1. The PTR extract produced at Ex.P.2 shows that one Jayashil Martin-Bhasme, Jones Martin-Bhasme, Sulochana Martin-Bhasme, Divakar E. Punit and Nisha Parakkal were the trustees. Obviously, the owner of the property where the school is being run, Mr.Martin Luther was no more alive and he had died on 03.03.1986 as recorded in the C.T.S extract at Ex.P.7.

26. The Exs.P4 and P5 show that for the academic year 2003-2004, the Deputy Director of Public Instruction (DDPI, Dharwad) had granted recognition to the school, which is run by Martin Luther Educational Trust. These two are the only documents which show that the Government Department had recognized the Basel Mission English Medium Primary School and English Medium High School run by Martin Luther Educational Trust. Except these two documents, no other document is available establishing that the Government Department had recognized the plaintiff's Trust.



27. The Ex.P.8 is a tax payment receipt evidencing that Sulochana Martin Luther Bhasme had paid the property tax of ₹5,745/- to the Hubballi-Dharwad Municipal Corporation.

28. As noted above, Ex.P.9 happens to be the change report submitted by the defendant to the Assistant Charity Commissioner. The important aspect which may be seen from Ex.P.9 is that Professor Paul S. Dhavale, DW.1 was one of the trustee of Basel Mission Higher Education Centre, Dharwad, i.e., the defendant. There were some changes in the trustees and this report mentioned that Basel Mission Girls High School is also one of the institutions run by the defendant. The Basel Mission English Medium Primary School was also run by it and therefore, it was reported to the Assistant Charity Commissioner to mention these two institutions under the defendant's Trust in the PTR. Accordingly, the Assistant Charity Commissioner has recorded the same in the PTR as may be seen from the Ex.D.2 which is the certified PTR extract. The intimations by the Additional Director of Public Instructions Bengaluru, which are at Exs.P10, P12 and P13 show that the permission was granted for the running of the Basel Mission English Medium Primary School with



certain conditions. These documents do not mention either it was run under the management of the plaintiff or under the management of the defendant. Therefore, they are not of much importance to the appellant or the respondent. The intimation by a Special Officer and Ex-Officio Under Secretary to the Government, Education Department dated 26.07.1984 produced at Ex.P.14 shows that Government had occurred recognition to Basel Mission English Medium School at Hubballi. This document also do not mention as to in whose management the said school is.

29. Exs.P6, P15 to P21 are the correspondence between the employees of the institution and the principal of Basel Machine English Medium School. It is pertinent to note that as per Ex.P.22, the DDPI, Dharwad had cancelled the suspension of the teachers of the institution by the principal, on the ground that only the management has the powers of suspension, but not the principal. These correspondences depict that there was a rift between the plaintiff' Trust and the Government Department. Obviously, the principal of the institution, who was none else



than the wife of PW.1 was supporting the plaintiff's Trust and not the defendant's Trust.

30. Rest of the documents are not of much importance, since they are the appointment letters, newspaper clippings etc.

31. The defendants' Trust has produced the PTR extract at Ex.D.2, which shows that the defendant Basel Mission Higher Education Center, Dharwad was registered in the year 1955 and there have been several changes on account of the change reports submitted. There cannot be any doubt that the defendant's Trust is registered long back prior to the registration of the plaintiff's Trust. The entry of the name of the Basel Mission English Primary School was made pursuant to an inquiry No.557/1986. Therefore, even before the plaintiff's Trust came in existence, the Basel Mission English Primary School came under the control and management of the defendant's Trust in the year 1986. This aspect is born out of the record and it cannot be disputed.

32. The next aspect to be noted is that, pursuant to an inquiry by the Assistant Charity Commissioner, an entry was



made in the PTR of the plaintiff's Trust in the year 2000. Ex.P.2 mentioned that Basel Mission English Medium School Primary and Higher Secondary was added as one of the institutions under the plaintiff's Trust under inquiry No.52/2000. The entry dated 08.06.2000 was probed into by the defendant and it was found that no such enquiry had been conducted by the Assistant Charity Commissioner. The endorsement of the Assistant Charity Commissioner is produced at Ex.D.4. The said inquiry No.52/2000 pertains to Kumareshwara temple of Sarvandha Taluka, Ranebennur as may be found from Exs.D.5 and D.6. Therefore, the entry of the Basel Mission English Medium Primary School as one of the institutions run under the management of the plaintiff is a bogus entry and Ex.P2 to that extent cannot be believed.

33. The learned counsel appearing for the respondent has drawn the attention of this Court to the E.D.15, which is a letter alleged to have been written by the principal Sri.S.J. Bhasme, who is none else than the wife of PW.1, where she thanked the defendant for appointing her as the principal on 07.03.1986. This document is not admitted by the PW.1 in the



cross-examination. PW.1 states that he cannot recognize the signature of his wife i.e., the principle of the school. This Court is also not inclined to accept the said document for the simple reason that the other documents produced by the defendant at Exs.D16, D17 and D18 show the signature in a different way. However, the learned counsel appearing for the respondent has placed reliance on the correspondence by the Government Department with the defendant institution. Exs.D10, D11 and D12 are the correspondence and sanction accorded by the Government for the running of the Basel Mission English Medium Primary School. Ex.D.11 mentions that Government has accorded the permission to start the English Medium Primary School at Hubballi under the management of the Basel Mission Girls High School Hubballi with effect from the academic year 1974-1975 without any financial commitment. This letter dated 17.07.1976 gains importance in the matter. Similarly, the Ex.D.12 is another such letter issued by the Government. The Ex.D.13 is a Form No.7 application submitted to the Government by the principal of the school. This shows that Mrs.Salma J. Bhasme, i.e., the principal of the school, has mentioned that the said school is being run under Basel Mission Higher Education



Center, Dharwad, i.e., the defendant and the signature on this form is the same, which may be found in the documents produced by the plaintiff. Therefore, it is evident that the initial recognition by the Government to run the said school was under the management of the defendant's Trust. These documents clinch the issue in favour of the defendant.

34. It may be true that the school was started in the year 1971 or the year 1974-1975. The records reveal that it was in the year 1976 and permission was accorded in the year 1976. At that time, there was no such Trust known as Martin Luther Educational Trust. Therefore, the principal had submitted an application that the said school is run under Basel Mission Higher Education Center which was a registered Trust under the BPT Act.

35. It seems, the said Martin Luther and subsequently, PW.1-Jayashil, was in possession of the property which was granted by Deenabandu Housing Co-operative Society under permanent lease and it was used for construction of the Basel Mission English Medium Primary School. We are not concerned as to in what capacity PW.1-Jayashil or his father Martin Luther



Anandappa Bhasme had permitted the school to be run in his individual property. The said question is not whether the subject matter of the present suit and therefore, it is not necessary to go into the same. It is for this reason that the lease deed sought to be produced by the appellant under Order XLI Rule 27 of CPC and the building completion certificate issued by Hubballi-Dharwad Municipal Corporation are not of any relevance for adjudication of the present case. The records reveal that thereafter, the plaintiff, especially Martin Luther or PW.1 started asserting that they are not under the control of Basel Mission Higher Education Center and they started asserting that they constitute the management. This rift appears to have escalated and there were some differences between the teachers of the institution and the principal. The principal had taken action of suspension of some of the teachers, which was set at not by the department on the ground that prior permission was not obtained from the department and that the management had not suspended the teachers, which alone had the powers to do so. This has escalated into a direct conflict between the plaintiff's Trust and the defendant's Trust.



36. Evidently, the DDPI had instituted an inquiry and ultimately, a report was instituted by DDPI and a report was submitted by DDPI to the Director of Public Instructions, Bengaluru. The said reported Ex.D.22 narrates the turn of events which have taken place. What Ex.D.22 do not mention is the two documents of the department which are produced by the plaintiff at Exs.P4 and P5. Except Exs.P4 and P5, all other documents are in favour of the defendant and the report of DDPI, Dharwad to the Director of Public Construction is also in favour of the defendant.

37. A careful examination of the above documentary evidence which is available on record, clearly show that the Basel Mission English Medium Primary School was run by the defendant's Trust but not by the plaintiff's Trust. The correspondences, approvals by the Government etc., commenced in the year 1976 and they stand that the defendant is in the management of it. The form of application filed by the principal of the school in the year 1976 also depicts that it was admitted by the principal that the defendant is managing the said school. It is not known, when the said school came under



the management of the plaintiff's Trust. It appears that the plaintiff's Trust usurped the management and proclaimed itself to be in the management of the school. Therefore, simply because the school is being run in the premises of PW.1, it cannot be said that the school is under his management. Similarly, the evidence falls short of establishing that the PW.1 had either leased or rented his individual premises to the plaintiff's Trust to run the said school.

38. Under these circumstances, the conclusions reached by the First Appellate Court are justifiable and therefore, this Court holds that the First Appellate Court has rightly dismissed the suit filed by the plaintiff. Hence, the present appeal is bereft of any merits and the same is hereby ***dismissed***. The judgment of the First Appellate Court in R.A.No.79/2006 is hereby confirmed.

SD/-
(C M JOSHI)
JUDGE