

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.4665 of 2016
Date of decision: August 04, 2016

Aggarwal Public School & others ...Petitioners

Versus

Bhumi Singla & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Lokesh Sinhal, Advocate for the petitioners.

Rajan Gupta, J. (oral)

Present revision petition is directed against the order dated 27.04.2016, passed by Civil Judge (Jr. Division), Faridabad, whereby application u/o 7 rule 11 CPC filed by the petitioners has been rejected.

Learned counsel for the petitioners has assailed the order. According to him, the suit filed by the plaintiff/respondents was not maintainable as they had no cause of action to file the same. He submits that plaintiffs have concealed material facts from the court and the suit is also barred by rule of estoppel and limitation.

I have heard learned counsel for the petitioners and given careful thought to the facts of the case.

Plaintiff/respondents No.1 to 18 filed a suit seeking permanent injunction as well as mandatory injunction seeking direction to petitioners not to charge illegal amount under various heads, like annual charges, computer fees, sports fees, medical fees, pupil fees, science fees,

security fees etc. During the pendency of proceedings, instant application was moved by the defendants (petitioners herein) for rejection of plaint on the ground of maintainability of suit, cause of action, estoppel, concealment of facts, limitation etc. The trial court dismissed the application as it did not find any ground for rejection of the plaint. It observed that cause of action arose in favour of the plaintiffs when charges were demanded by the school. As regards limitation, it observed that this question cannot be adjudicated without appreciation of evidence. Under the circumstances, I find no infirmity with the order passed. The plea raised by the petitioners can only be decided on the basis of evidence. Thus, provision of Order 7 Rule 11 CPC cannot be invoked in the circumstances.

Dismissed.

(RAJAN GUPTA)
JUDGE

August 04, 2016
'Rajpal'