

\$~SB-3 (Original Side).

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS (OS) 1710/2014

ARVIND SINGHAL & ORS.

..... Plaintiffs

Through: Ms. Manjula Gandhi, with Ms. Medha
Tandon, Advocates.

versus

PLAYFUL MINDS ENRICHMENT LIMITED & ORS.

Defendants

Through: Mr. Pravir K. Jain, Advocate for D-1.
Mr. Jaswinder Singh, Advocate for D-4.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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06.05.2016

I.A. No. 13266/2015 (by the plaintiff for review of the order dated 17.4.2015 read with I.A. No. 2909/2016 for condonation of delay of 46 days in filing I.A. No. 13266/2015)

1. The present application was originally filed by the plaintiff under Section 151 CPC for seeking modification of the order dated 17.4.2015 whereunder I.A. No. 7362/2015 filed by him under Order XXIII Rule 1 CPC for seeking leave to withdraw the suit with liberty to initiate appropriate legal action against the defendant was allowed.

2. As learned counsel for the defendant no. 1 had objected to the maintainability of the present application filed under Section 151 CPC and had submitted the plaintiffs are actually seeking review of the order dated 17.4.2015, learned counsel for the plaintiffs had stated that she had no objection to the present application being treated as a review

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application and had sought time to file an application for seeking condonation of delay. That is how I.A. No. 2909/2016 came to be filed later on.

3. The limited relief sought by the plaintiffs in this application is for clarifying her statement as recorded in para-2 of the order dated 17.4.2015.

4. In para 2 of the order dated 17.4.2015, the statement of counsel for the plaintiffs was recorded to the effect that at the time of instituting the suit on 27.5.2014, they had prayed for the reliefs of declaration, permanent and mandatory injunction against the defendants but after the defendant No.1 had filed the written statement, it had transpired that the defendant No. 3/SDMC has registered it on 28.5.2014 and by virtue of the said registration, defendant No.1 was entitled to run a play school in the suit premises under MPD 2021.

5. Learned counsel for the plaintiffs seeks to clarify that she had not acceded to the position taken by the defendant No.1 in its written statement and she was only referring to the submission made by it in the written statement, which was to the effect that defendant No.3/SDMC had registered it on 28.5.2014 and in terms of the said registration, a play school could operate from the suit premises.

6. It is clarified that the first sentence of para -2 of the order dated 17.4.2015 only reproduces the stand taken by the defendant No.1 in its written statement and shall not be construed to mean that the plaintiffs have acceded to the said position or admitted the averments made by the defendant No.1 in its written statement in that regard.

7. The court is informed that after 17.4.2015, the plaintiff had filed a writ petition on 08.5.2015, for seeking the same relief as prayed for in the suit against the defendant No.1 and the SDMC, which is pending adjudication and defendant No.1 and the SDMC have filed their counter affidavit/reply affidavit in opposition to the said petition.
8. Both parties shall be at liberty to pursue the said petition, pending before the Roster Bench.
9. The applications are disposed of.

HIMA KOHLI, J

MAY 06, 2016

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