

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.1681 of 2017
Date of decision:8.3.2017**

Gursher Singh Saran

...Petitioner

Versus

All Saints Institute of Medical Science & Research and another
...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.H.S.Bedi, Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present civil revision petition, at the hands of plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 10.1.2017 (Annexure P-11) passed by the learned trial Court, dismissing the application of the petitioner for releasing the amount, deposited by the petitioner, in compliance of the order dated 29.10.2011 (Annexure P-3), passed by the learned trial Court.

Heard learned counsel for the petitioner.

It is a matter of record that petitioner-plaintiff filed a suit for mandatory injunction vide plaint (Annexure P-2), directing the defendants to issue 'No Objection Certificate', Registration Number, Character Certificate, original Detail Mark Sheet of 10+2 class and fourth year annual fee along with security deposit. Along with his suit, he also filed an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure for ad interim injunction vide Annexure P-1. After hearing learned counsel for the parties, the learned trial Court passed a conditional ad interim injunction order dated 29.10.2011 (Annexure P-3).

Operative part of the order dated 29.10.2011 passed by the learned trial Court, at pages 24 and 25 of the paper-book, reads as under:-

“Only dispute of the respondents is that applicant has not deposited fee for the last academic years and to secure any due amount against the applicant, the applicant can be directed to deposit the amount in court which may be delivered at the end of trial in favour of respondents or applicant as per decision of the case. The studies of the applicant are suffering as respondents are not allowing him to attend the classes. So, prima facie case is made out in favour of the applicant. Balance of convenience is also lies in favour of applicant. If injunction is not granted, the applicant would suffer an irreparable loss which may causes loss of one year due to pending litigation or due to non issuance of no objection certificate and character certificate. So, being rarest case the present application is allowed. The respondents are directed to issue no objection certificate and character certificate to the applicant with immediate effect subject to deposit of Rs.40,250/- in court. However, it is made clear that no objection certificate and character certificate are to be issued if the applicant shows receipt of the amount of Rs.40,250/- deposited in court.

However, observation made by me in the above said order would not effect the merits of the case in any manner.”

The above-said order was challenged by the petitioner as well as by the defendants in their misc. Civil Appeals. Both these appeals came to be dismissed by the learned Additional District Judge, vide his order dated 31.10.2014 (Annexure P-8). Petitioner approached this Court against the above-said two orders passed by the learned trial Court as well as by the learned Additional District Judge, by way of Civil Revision No.8393 of 2014. However, instead of pressing the said civil revision before this Court, it was dismissed as withdrawn with liberty to approach the learned trial

Court by moving an appropriate application, seeking refund of the amount. Thereafter, application (Annexure P-10) was filed before the learned trial Court, on which the impugned order dated 10.1.2017 (Annexure P-11) has been passed.

After hearing the learned counsel for the petitioner and going through the record of the case, this Court is of the considered opinion that once the above-said order dated 29.10.2011 (Annexure P-3) was upheld by the learned Additional District Judge vide his above-said order dated 31.10.2014 (Annexure P-8) and the petitioner has got his Civil Revision Petition No.8393 of 2014 dismissed as withdrawn, the learned trial Court was well within its jurisdiction, while passing the impugned order and the same deserves to be upheld. It is so said because there was no change in the circumstances which might have entitled the petitioner for release of the amount, deposited by him, in compliance of the above-said order dated 29.10.2011. Under these circumstances, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the instant revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

However, keeping in view the nature of controversy involved, coupled with the fact that civil suit is pending for the last more than 5 years, the learned trial Court is directed to make an endeavour to decide the civil

suit at an early date, however, in accordance with law.

Resultantly, with the above-said observations made and directions issued, the present civil revision petition stands dismissed, however, with no order as to costs.

8.3.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No