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

+ **CONT.CAS(C) 21/2017 & C.M.No.1102/2017**

**DELHI PUBLIC SCHOOL SOCIETY**

..... Petitioner

Through Mr.Puneet Mittal with Ms.Vasudha  
Bajaj, Advocates.

versus

**RAVINDER YADAV & ORS**

..... Respondents

Through

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**

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**11.01.2017**

Present contempt petition has been filed alleging wilful disobedience of the decree and order dated 29<sup>th</sup> November, 2016 passed in CS (Comm.) No.404/2016, whereby suit for permanent injunction against respondents from using the trade mark DPS/Delhi Public School and logo of the petitioner-Society, was decreed and respondents undertook to abide by the decree. Respondents further undertook to file an affidavit furnishing the name, address and particulars of all the schools/ franchises of Delhi Public School Pvt. Ltd.

Learned counsel for the petitioner states in pursuance to the aforesaid undertaking, respondent nos. 2 and 3 have filed the affidavits, which are not in conformity with the order dated 29<sup>th</sup> November, 2016 inasmuch as respondents have given incomplete address of schools/franchises of Delhi Public School Pvt. Ltd.

He further states that despite decree having been passed, respondent nos. 2 and 3 have recently used the name DPS/Delhi Public School and logo in their advertisement published on 21<sup>st</sup> December, 2016.

In the opinion of this Court, since the petitioner has an alternative effective remedy by filing execution proceedings, present contempt petition is not maintainable.

The Supreme Court in ***Kanwar Singh Saini Vs. High Court of Delhi, 2012 (4) SCC 307*** has held as under:-

*“26. The case requires to be considered in the light of the aforesaid settled legal proposition. Whatever may be the circumstances, the court decreed the suit vide the judgment and decree dated 12-5-2003. The said decree was passed on the basis of admission/undertaking made by the appellant on 29-4-2003 and the pleadings taken by him in his written statement. Therefore, in a case where there was any disobedience of the said judgment and decree, the application under Order 39 Rule 2-A CPC should not have been entertained. Such an application is maintainable in a case where there is violation of interim injunction passed during the pendency of the suit. In the instant case, no interim order had ever been passed. Thus, the appropriate remedy available to the decree-holder Mohd. Yusuf had been to file application for execution under Order 21 Rule 32 CPC. The procedure in execution of an injunction decree is same as prescribed under Order 39 Rule 2-A i.e. attachment of property and detention of the disobedient to get the execution of the order. In view thereof, all subsequent proceedings were unwarranted.*

*27. The application of the decree-holder had been for violation of the undertaking which at the most could be civil contempt as defined under Section 2(b) of the 1971 Act as it includes the wilful breach of an undertaking given to a court.*

*Therefore, the trial court failed to make a distinction between civil contempt and criminal contempt. A mere disobedience by a party to a civil action of a specific order made by the court in the suit is civil contempt for the reason that it is for the sole benefit of the other party to the civil suit. This case remains to the extent that, in such a fact situation, the administration of justice could be undermined if the order of a competent court of law is permitted to be disregarded with such impunity, but it does not involve sufficient public interest to the extent that it may be treated as a criminal contempt. It was a clear-cut case involving private rights of the parties for which adequate and sufficient remedy had been provided under CPC itself, like attachment of the property and detention in civil prison, but it was not a case wherein the facts and circumstances warranted the reference to the High Court for initiating the proceedings for criminal contempt.”*

(emphasis supplied)

Consequently, the present contempt petition is disposed of with liberty to the petitioner to file execution proceedings.

**JANUARY 11, 2017**  
**KA**

**MANMOHAN, J**