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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 149/2017**

KHUSHBOO KAUSHIK Petitioner
Through **Mr.K.S.Kashyap, Advocate**

versus

SANDHYA BINDAL & ANR Respondent
Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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07.02.2017

CM No.4825/2017

Exemption allowed, subject to all just exceptions.

CM(M) 149/2017 & CM No.4826/2017 (stay)

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 22.12.2016 by which an application filed by the respondent under Order 7 Rule 11 CPC was dismissed and respondent No.1 who was arrayed as a defendant in the suit was permitted to be deleted from the Memo of Parties.

2. The petitioner has filed the suit for damages against respondent No.2 i.e. Ramjas School, Anand Parbat, New Delhi and its Principal i.e. respondent No.1. The ward of the petitioner was studying in respondent No.2 school since Nursery. In 2013-14, she passed 10th class examination. However, in 11th class she wanted to take admission in the Science side with Biology as a subject. The school decided not to offer Biology as a subject. She was hence advised to either leave the school or change her subject. Hence, the present suit has been filed seeking damages.

3. Learned counsel appearing for the petitioner submits that admission

had been given to the ward of the petitioner but it is respondent No.1 who has asked the ward of the petitioner to leave the school. It is manifest that the petitioner is aggrieved by the action of the school in not having Biology as one of the subjects which the ward of the petitioner wanted to pursue. A perusal of the communications on record show that the respondent No.1 was merely acting on behalf of respondent No.2, namely, Ramjas School, Anand Parbat, New Delhi. On 11.7.2014 she has written to the petitioner pointing out that Biology has been discontinued which information has been given earlier. She was offered Engineering Graphics or Computer Science instead of biology. Similarly, on 19.7.2014 she was informed to take steps immediately as per letter dated 11.7.2014 and that the ward of the petitioner was not a student of the school for the session 2014-15. Further, a perusal of the plaint would show that there are no allegations of mala fide on the part of respondent No.1. Respondent No.1 has acted merely as the officer of respondent No.2 and cannot be held personally liable for any damages as is sought to be made by the petitioner.

4. It is also noteworthy that the petitioner himself is an employee of respondent No.2/Ramjas School, Anand Parbat, New Delhi.

5. In view of the above, there are no reasons to interfere in the order passed by the trial court deleting respondent No.1 from the array of parties.

6. The petition is without merits and is dismissed. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

FEBRUARY 07, 2017

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