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

+ **C.R.P. 35/2017**

FRANKFINN AVIATION SERVICES PVT LTD..... Petitioner
Through Mr.Praveen Kr. Singh, Advocate.

versus

S UTHAYA SURIYAN & ANR Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **15.02.2017**

CM No. 6002/2017 (exemption)

Allowed subject to all just exceptions.

C.R.P. 35/2017

1. By the present revision petition filed under Section 115 CPC read with Section 151 CPC, the petitioner seeks to impugn the order dated 21.10.2016 by which an application of the petitioner filed under Order XII Rule 6 CPC was dismissed.

2. The petitioner has filed a suit for injunction, damages and rendition of accounts against the respondents praying for a prohibitory injunction to restrain the respondents from carrying on business, promotion and admissions in the name and style of “Fly Skies Academy/Fly Skies Institute of Air Hostess Training” and/or any business activity of similar business nature as that of the petitioner till the end of prescribed period of Franchise Agreement.

3. The petitioner filed the present application under Order XII Rule 6 CPC seeking a judgment be pronounced to restrain the respondents from carrying on business, promotion and admissions in the name and style of “Fly Skies Academy/Fly Skies Institute of Air Hostess Training” and/or any business activity of similar business nature as that of the petitioner till the end of prescribed period of Franchise Agreement.

4. The trial court by the impugned order concluded that the respondents have in their written statement denied running of any similar business as mentioned in the Franchise Agreement. The order also noted that the respondents have explained that the permission was obtained from Bharathar University but neither any admission was done nor any courses have started. Noting that there is no clear and unambiguous admission, the application was dismissed.

5. I have heard the learned counsel for the petitioner.

6. Initially he submitted that the interim order be passed restraining the respondents from carrying on activities similar to that of the petitioner till the period of the Franchise Agreement, namely, June, 2017. He was asked to show on what basis the said prayer is being made. Reliance was placed on Clause 8 of the MOU dated 26.06.2014 which provides that the respondents shall not carry on any other activity from Frankfinn Centre during the subsistence of the Franchise Agreement.

7. A perusal of the written statement filed by the respondents would show that the respondents have denied carrying on any business activity of similar nature as that of the petitioner. They also pointed out that the petitioner took drastic steps and unilaterally issued termination notice dated 03.02.2015 wherein it is stated that w.e. f. 01.03.2015 on-line admissions

were stopped and the Franchise was terminated. It is also stated in the written statement that the petitioner is not complying with the terms of the payment and have not remitted to the respondents 75% of the fee collected to enable the respondents to run the institution. It is further stated that first the respondent got approval on 10.04.2015 for the two different courses and only a board was displayed. However, in view of the interim order passed by the court, no admission or no courses have been started by the respondents.

8. It is clear that as per the written statement, the agreement has come to an end vide termination notice dated 03.02.2015. The petitioner have not filed a copy of the said termination notice dated 03.02.2015 along with the present petition. In any case, as per the written statement the respondents have already surrendered the premises from where the said institution was being run. There are no admissions in the written statement that require passing of a decree under Order XII Rule 6 CPC. There are no reasons for this court to exercise its revisionary powers to interfere with the impugned order.

9. With the above observations, the present petition stands dismissed.

JAYANT NATH, J

FEBRUARY 15, 2017

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