

\$~32

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

+ **W.P.(C) 3152/2017**

ZAREENA AND ORS

..... Petitioners

Through: Mohd. Aslam, Ms. Meenu Sharma
and Mr. Ashutosh Rana, Advs.

versus

FRANCIS MODERN PUBLIC SCHOOL AND ORS..... Respondents

Through: Mr. Shiva Sharma, Ms. Sona Babbar,
Ms. Swati Tiwari, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **25.04.2017**

By this writ petition petitioner has prayed as under :-

(a) Issue a writ of prohibition or a writ order or direction in the nature of prohibition, restraining thereby the respondents nos.1 and 2 from closing/shutting down the respondent no.1 school during current academic year 2017-18 or unless any other arrangement is made by the respondent no.2 to run the respondent no.1 school.

(b) Issue a writ of mandamus or a writ order or direction in nature of mandamus thereby directing the respondent no.4 not to take the possession of the respondent no.1 school during the academic session 2017-18 or till an alternative arrangement is made by the respondent no.2 to run the respondent no.1 whichever is earlier in time.

Vide judgment dated 22nd July, 2016 passed in RSA 188/2016 by a learned Single Judge of this Court, appellants were granted time to vacate the premises upto 30th April, 2017. The order reads as under:-

“1. This Regular Second Appeal is filed by the tenants

against the concurrent judgments of the courts below, passed after trial in the suit, directing eviction of the appellants/tenants from the suit premises.

2. The appeal was argued at length. At the stage of dictation of judgment dismissing the appeal, inasmuch as no substantial question of law arises and in fact no question of law also arises, because there cannot be a legal claim of the appellants/defendants of a lease of 18 years by an unregistered document in the face of Sections 17(1)(b) and (d) of the Registration Act, 1908 read with Section 107 of the Transfer of Property Act, 1882, counsel for the appellants on instructions from Sh. S.K. Singh Principal of the school states that the appeal is not pressed on merits but the appellants who are running RSA 188/2016 page 1 of 2 a school be granted time to vacate the suit premises by 30.4.2017 when the academic session in the school will end and till July, 2016 the appellants will pay mesne profits as per the judgments of the courts below and from 1.8.2016 appellants will pay a sum of Rs.20,000/- per month till the appellants vacate the suit premises on or before 30.4.2017. Appellants/defendants will also clear all the charges towards electricity, water, etc., of the suit premises till the appellants occupy the suit property.

3. Subject to the appellants filing affidavits of undertakings of their authorised officials within a period of two weeks from today in terms of the present order, appellants are granted time to vacate the suit premises on or before 30.4.2017.

4. The appeal is accordingly disposed of.

5. A copy of this order be given *dasti* under the signature of the Court Master.”

In essence petitioners have assailed this order in this writ petition, which is not permissible. Accordingly, this petition is not maintainable and is dismissed.

A.K. PATHAK, J.

APRIL 25, 2017/ga