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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 880/2017**
LAXMAN PUBLIC SCHOOL SOCIETY & ANR..... Petitioner
Through: Mr. Sanjiv Kakra, Mr. Rohit Oberoi
& Mr. Vipin Bhasker, Advs.
Versus
NAVSHAKTI EDUCATION SOCIETY & ORS..... Respondents
Through: Mr. Pramod Gupta & Ms. Mannat
Sandhu, Advs. for R-1.
Mr. Sachin Nahar, Adv. for R-4.
Mr. Atul Kumar, Adv. for R-5.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **18.08.2017**

CM No.29377/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 880/2017 & CM No.29378/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the order dated 11th August, 2017 in Ex.No.97884/2016 of the Court of JSCC-ASCJ-Guardian Judge, Central District, Tis Hazari Courts, Delhi.
4. The counsels for the respondent no.1 Navshakti Educational Society, respondent no.4 Directorate of Education (DoE) and respondent no.5 Central Board of Secondary Education (CBSE) appear on advance notice.
5. The counsel for the petitioners has been heard.

6. In a suit filed by the respondent no.1, an *ex parte* judgment and decree dated 10th January, 2012 was passed, declaring (i) that the recognition dated 19th July, 1983 granted by the Director of Education, Government of NCT of Delhi for petitioner No.1 Laxman Public School Society under the management of the petitioner No.2 is wrongful, illegal, *ultra vires*, without jurisdiction, based on misrepresentation and collusive and fraudulent; (ii) that the petitioners are not entitled to run Laxman Public School Society; (iii) that it is only the respondent no.1 which is entitled to run and manage Laxman Public School and entitled to apply for and obtain recognition, upgradation or permissions and affiliations if any required; and restraining the petitioners from applying for or obtaining any recognition or upgradation or affiliation for the said School.
7. The petitioners have filed an application under Order IX Rule 13 of the CPC and which is stated to be pending consideration.
8. The respondent no.1 / plaintiff / decree-holder has filed execution aforesaid for execution of the decree.
9. According to the counsel for the petitioners, the counsel for the respondent no.1 / plaintiff / decree-holder has made a statement before the trial Court to not execute the decree till the disposal of the application under Order IX Rule 13 of the CPC
10. According to the counsel for the respondent no.1 / plaintiff / decree-holder the said statement was effective till the next date of hearing only.
11. The petitioners, during the pendency of the aforesaid proceedings, wanted to appoint a regular Principal of the school.
12. Vide impugned order dated 11th August, 2017, the petitioners have

been restrained from appointing any regular Principal and also from creating any third party interest in Laxman Public School till the next date of hearing i.e. 8th September, 2017.

13. I have enquired from the counsel for the petitioners as to how can the petitioners on the one hand rely on the statement of the counsel for the respondent no.1 / plaintiff / decree-holder to not execute the decree till the disposal of the application under Order IX Rule 13 of the CPC and on the other hand propose to make changes in the subject school in contravention of the judgment and decree, though *ex parte*, but which has not been set aside till now.

14. Faced therewith, the counsel for the petitioners confines the relief in this petition to a direction to the trial Court to expeditiously dispose of the application under Order IX Rule 13 of the CPC.

15. The petition is disposed of with the directions that neither the counsel for the petitioners nor the counsel for the respondent no.1 / plaintiff / decree-holder shall take any adjournments before the trial Court in the proceedings under Order IX Rule 13 of the CPC.

16. On enquiry, it is informed that none of the other appearing parties are material parties for any adjournment to be sought by them.

17. Binding the petitioners and the respondent no.1/plaintiff / decree-holder to their statements aforesaid, the petition is disposed of.

18. The trial Court is requested to endeavour to decide the application as expeditiously as possible.

No costs.

RAJIV SAHAI ENDLAW, J

AUGUST 18, 2017 ‘gsr’..

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