

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-4222-2018

DATE OF DECISION: OCTOBER 16, 2018

APPEJAY SCHOOL, SECTOR 21, FARIDABAD ...PETITIONER

VERSUS

HIRRANYA PANT AND ANOTHER ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

PRESENT: MR. H.L. TIKKU, SR.ADVOCATE
WITH MR. SUMEET GOEL, ADVOCATE
AND MS. MANJU GOYAL, ADVOCATE
FOR THE PETITIONER.

MR. VIKRAM BALI, ADVOCATE
FOR THE RESPONDENTS.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner (plaintiff in the suit out of which the impugned order arises), has challenged the order of the trial Court dated 9.5.2018, by which that Court closed the evidence of the respondents-defendants “after tendering various documents”.

Thus, it is the tendering of the documents and the acceptance thereof by the trial Court that the petitioner is aggrieved of.

Mr.H.L.Tikku, learned Senior counsel appearing for the petitioner, submits that earlier an order was passed by the trial Court on May 30, 2016 (copy Annexure P-6), directing the petitioner-plaintiff to place on record two documents as mentioned in S.Nos.(i) and (ii) in paragraph 2 of the said order, which are seen to be documents pertaining to the Schedule of Fee Charges of the School for the period 2009-10 to 2013-

14, as also copies of the detailed fee structure submitted by the plaintiff-school to the District Education Officer, Faridabad, for the same period.

Other documents that the respondents-defendants had sought to get summoned from the plaintiff-school, were a copy of Form No.VI submitted to the Director, Secondary Education, Haryana, in respect of the minimum facilities to be provided and the fee to be charged for the said period, the financial details of the school from the year 2006-07 till 2013-14, the last document being the details regarding transfer of funds amounting to ₹12 crores in the year 2006-07, to the parent body of the plaintiff-school, i.e. to the Apeejay Education Society.

Thus, learned Senior counsel contends that only two documents having been ordered to be produced by the trial Court, which were duly produced thereafter by the petitioner-plaintiff, the other documents not having been directed to be produced by the stage of closing defence evidence, they could not have been taken on record.

Learned counsel appearing for the respondents on the other hand submits that the remaining documents not having been directed to be produced vide the order dated May 30, 2016, with the respondents-defendants having obtained them subsequently alongwith some other documents, which were in the form of representations made by the Parents' Association against hike in fee, as also orders passed by the Director, School Education, Haryana, the defendants deserve to be allowed to produce those documents by way of evidence and to actually lead evidence in regard thereto.

After considering the aforesaid contentions, whereas I do not

disagree on merits with the contention of learned counsel for the respondents-defendants, the whole issue in the suit being recovery of fee by the school from the respondents-defendants, and the defendants' contention being that the hike was unwarranted, however, firstly, the defendants not having challenged the order dated May 30, 2016, directing the plaintiff to place on record only two documents and not the others that were sought to be placed on record; and secondly, even the order impugned by the petitioner, i.e. the plaintiff, not having been challenged by the respondents-defendants to the extent that it also closes their defence without evidence having been led with regard to the documents otherwise tendered by the counsel for the respondents-defendants on the date of passing of the order, (9.5.2018), the relief now sought by the learned counsel for the respondent, that evidence be also allowed to be led in respect of those documents, cannot be accepted.

Consequently, this petition is disposed of with a direction that even if the said documents have been tendered, as is reflected vide the impugned order, naturally with no evidence led qua those documents, they would not be taken to have been proved.

Interim order stands vacated.

October 16, 2018
Gulati/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes