

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.104

C.R. No.8381 of 2017 (O&M)
Date of decision: 26.09.2018

Dev Samaj Vidya Niketan Senior Secondary School and another
....Petitioners

versus

Dev Samaj Society and others
....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms. Neha Sharma, Advocate for
Mr. S.P. Arora, Advocate
for the petitioners.

Mr. Anuj Raura, Advocate and
Mr. Ketan Chopra, Advocate
for the respondents.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 13.10.2017 passed by the Civil Judge (Junior Division), Gurugram (for short – the Trial Court) dismissing the petitioners' suit on the ground of jurisdiction. Also under challenge is the order dated 31.10.2017 passed by the District Judge, Gurugram (for short – the Appellate Court) dismissing the appeal filed by the petitioners against the aforesaid order dated 13.10.2017 holding the same to be not maintainable.

Briefly stated, the facts leading to the filing of the present petition are that the petitioners filed a suit before the Trial Court seeking therein permanent injunction to restrain the respondents, who were the defendants in the suit, as also their agents, administrators, officials etc. from interfering in the functioning of petitioner No.2 as Principal of the School

in question. Mandatory injunction to the same effect was also prayed for.

On 12.10.2017, the Trial Court framed preliminary issues with regard to whether the petitioners' suit was maintainable and whether the issues raised by the petitioners in their suit were exclusively triable by the Education Tribunal, Gurugram. On the basis of the pleadings as also arguments raised by learned counsel for the parties, through order dated 13.10.2017, the Trial Court was of the view that the petitioners' suit was exclusively triable by the Education Tribunal, Gurugram and thus, not maintainable before the Civil Court. Accordingly, the suit was dismissed on the ground of jurisdiction. The petitioners filed an appeal against the aforesaid order passed by the Trial Court which was dismissed by the Appellate Court on 31.10.2017 holding the appeal to be not maintainable.

At the very outset, learned counsel for the petitioners submitted that she does not press the present petition on merits and seeks to withdraw the same with liberty to the petitioners to approach the Education Tribunal, Gurugram and raise therein all the issues raised in the present petition.

Learned counsel for the respondents have no objection.

In the view of the above, the present petition is permitted to be withdrawn with liberty as prayed for by learned counsel for the petitioners.

No costs.

(DEEPAK SIBAL)
JUDGE

September 26, 2018
Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No