

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

CR-6639-2019 (O&M)

Date of Decision: 22.10.2019

Rao Chunni Lal Kanwar Singh Educational Trust and another

... Petitioners

Vs.

Aravali International School and another

... Respondents

CORAM : HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Dhruv Gautam, Advocate
for the petitioners.

NIRMALJIT KAUR, J. (Oral)

The present revision petition has been filed challenging the impugned order dated 26.7.2019 vide which the application filed under Order 47 read with Section 114 of the Code of Civil Procedure, 1908 (for short “the Act”) for review of the order dated 8.1.2018 was allowed and the matter was ordered to be restored to its original number.

While praying for setting aside the said order, learned counsel for the petitioner submitted that their application filed under Order 7 Rule 11 of the CPC was allowed on the ground that no cause of action accrued as there cannot be any restraint against the other party under the Copy Right Act by simply running an institute with similar name. However, by way of the application for review, it was pointed out that, in fact, the name of the respondent-plaintiff was duly registered with Registrar of Trade Mark, Government of India since 2004. Taking note of the same, the earlier order dated 8.1.2018 was restored.

Therefore, argument of the petitioner that there was no cause of action as the only prayer in the plaint was for violation of the Copy Right

Act deserves to be rejected as the perusal of the suit itself shows that the very suit had been filed for permanent injunction, infringement of copyright, trade-mark & damages & rendition of accounts. Moreover, it was specifically mentioned in para-1 of the plaint that the name of the plaintiff along with logo is also registered with the Trade Marks Registry, Government of India since 2004 under the provisions of the Trade Mark Act, 1999. Obviously, the review was allowed, taking note of the said fact as the error was evident on the face of it. Hence, no fault can be found with the impugned order.

Accordingly, this revision petition is dismissed.

22.10.2019
rajeev

(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No