

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

133

CR-2376-2024 (O&M)

Date of decision:22.04.2024

Aman Sharma & another

... Petitioners

Vs.

Apeejay School Faridabad

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Gorav Kathuria, Advocate for the petitioners.

...

SUKHVINDER KAUR, J.

1. Instant revision petition has been filed by the petitioners/JDs against the order dated 19.03.2024 (Annexure P-9) passed by the Civil Judge, Jr. Division, Faridabad, vide which the execution petition filed by the respondent/DH was dismissed as withdrawn as the petitioners/JDs had given five cheques against the decreed amount.

2. Relevant facts for adjudication of the present revision petition are that a civil suit was filed by the respondent/plaintiff seeking decree for recovery of Rs.1,34,138/- along with *pendente lite* interest and future interest @ 12% per annum from the date of institution of the suit till realization of the decretal amount against the petitioners. Vide judgment and decree dated 28.03.2019, the said suit was decreed by the Civil Judge, Junior Division, Faridabad. The said judgment and decree dated 28.03.2019 has been challenged before the District Judge, Faridabad vide Civil Appeal No.253 of 2019 which is pending adjudication. In the meantime, respondent No.1 filed the execution petition before the Executing Court for execution of judgment and decree dated 28.03.2019 being Execution No.205 of 2021. The Executing Court issued

notice to the petitioners/JDs in the said execution petition. Vide the impugned order dated 19.03.2024 as per compromise effected between the parties, the JD handed over five cheques to the DH and thereafter counsel for DH made a statement to withdraw the aforesaid execution petition and the same was dismissed as withdrawn. Aggrieved against the said order, the petitioners/JDs have knocked the doors of this Court by way of filing of the present revision petition.

3. Learned counsel for the revision petitioners has contended that the respondent had approached this Court by way of filing **CWP-15039-2009 titled as 'Apeejay Education Society & another Vs. State of Haryana & others'** against the order dated 06.07.2009 passed by the Government of Haryana placing a cap of 20% of tuition fee of preceding year on the fee hike by any private unaided school. Vide common judgment dated 27.04.2011 of this Court passed in CWP-11223-2009, the aforesaid order dated 06.07.2009 was set aside and liberty was given to the respondent – Director, School Education to reconsider the entire issue and pass an appropriate order/direction in accordance with law and in case the Director finds that the present institutions are indulging in any commercialization, profiting or charging of capitation fee, then he would have authority to check and prevent the same by passing an appropriate order. He has further contended that the petitioners through Parents' Association had challenged the issue of arbitrariness in fee hike by respondent by way of filing CWP-20545-2009 before this Court and in view of directions of this Court, a three member Committee was constituted to look into the issue. The Deputy Commissioner had also constituted a Committee headed by the SDM,

Faridabad for the purpose of scrutinizing the account of the respondent to assess the same. He has submitted that hike in fee charged by the respondent is illegal and it does not adhere to the provisions to the Haryana School Education Act, 1995 and the Haryana School Education Rules, 2003. He has further submitted that the respondent had filed civil suits for recovery against many other similarly situated students/parents for recovery of exorbitant hike in fee before the Civil Judge, Jr. Division, Faridabad. The Civil Judge, Jr. Division vide judgment and decree dated 22.10.2018 decreed the suit of the School, which has been assailed by the students by way of filing an appeal before the Additional District Judge, Faridabad, which was disposed of vide judgment and decree dated 27.03.2019. Then regular second appeal was preferred before this Court which was disposed of in a bunch of appeals in which lead case was RSA-3374-2017 and 57 other connected matters and the same was challenged before the Hon'ble Supreme Court of India by filing SLP (C) No.8544 of 2022 and SLP (C) Diary No.13606 of 2023. He has argued that the respondent – School has shown apprehension that there are similar other cases pending and based on the impugned judgment, those appeal might also be rejected. While noting these contentions, the Hon'ble Supreme Court of India vide orders dated 13.05.2022 and 04.07.2023, issued directions that the impugned judgment will not have effect of law qua other cases till consideration of these matters and the aforesaid SLPs are still pending adjudication. He has further argued that the Executing Court was apprised time and again that they had challenged the judgment and decree passed by the Civil Judge, Jr. Division, Faridabad before the District Judge, Faridabad, which is still pending

adjudication and to keep the execution petition in abeyance till final decision of the civil appeal filed by the petitioners as well final decision of the aforesaid SLPs, but the Executing Court did not consider the genuine request of the petitioners and insisted upon the petitioners to pay the decreed amount to the respondent. He has contended that on 16.03.2024 when the petitioners appeared in the morning before the Executing Court, the Executing Court threatened the petitioners to put them behind the bars if the agreed amount was not paid on that day itself. Thereafter learned counsel for the respondent had handed over a draft application by saying that they will accept the settled amount with post dated cheques only and the Executing Court asked the petitioners to give one cheque of current date and only thereafter the petitioners were allowed to leave the Court after accepting the settled amount in the shape of five post dated cheques including one cheque of current date. He has contended that in the similar matters where respondents' suit for recovery had been decreed and execution petitions are pending, the Executing Courts had adjourned the matters sine die till the decision of the Hon'ble Supreme Court but despite it being brought to the notice of the Executing Court, the impugned order was passed by the Executing Court. He has further contended that while allowing the present revision petition, the impugned order under challenge be set aside as the petitioners/JDs had given five post dated cheques against the decreed amount which were obtained under coercion and the respondent/DH may be restrained from encashing the same, taken under coercion against the decreed amount.

4. I have heard learned counsel for the petitioners at length and have gone through the records.

5. Perusal of the impugned order dated 19.03.2024 reveals that both the parties have appeared and stated that the matter has been settled between the parties. Counsel for the JD appeared and suffered a separate statement that the settlement is subject to encashment of the said cheques as detailed in the order and if any of the cheques was dishonoured then settlement would be withdrawn and JD would be liable to pay full decretal amount along with interest including as affirmed in his settlement given before the Executing Court. Counsel for the DH also suffered a statement that he had received post dated cheques from JD as detailed in the impugned order with the undertaking and assurance that each of the cheques would be honoured on presentation. It has been specifically mentioned in the impugned order that he had agreed and confirmed that if any of the above cheques towards the concessional amount on presentation was not honoured then the concession being granted by the School shall stand automatically withdrawn and then he would be liable to pay the outstanding fee with interest @ 6% per annum from due date till payment, court fee and legal cost and the amount if any paid would be first adjusted towards costs, then interest and principal and school would be free to take all actions as may be available in law including revival/filing of execution. So, after taking into view the statement made by JD, the present execution petition was dismissed as withdrawn with liberty to file fresh, if the cheques in question were dishonoured.

6. So as reflected in the impugned order that the matter has been compromised between the parties and when there is nothing on record that these cheques were obtained under coercion as alleged, then the impugned order does not suffer from any illegality or perversity.

7. Thus, there being no illegality or infirmity in the impugned order,

no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

8. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

22.04.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |