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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 25th October, 2024*+ **C.R.P. 315/2024 & CM APPL. 63447/2024**1. **MRS. ANURADHA MEHTA**

Daughter of Shri Swadesh Kumar Nayyar,
& Smt. Krishna Nayyar,
Wife of Shri Anil Mehta,
R/o A-79, Golf View Apartments,
Saket, New Delhi-110017

2. **SWADESH KUMAR NAYYAR**

Son of Late Shri Kidar Nath Nayyar,
R/o H-40/3, DLF Phase I, Gurugram-122002

3. **KRISHNA NAYYAR**

Wife of Shri Swadesh Kumar Nayyar,
R/o H-40/3, DLF Phase I, Gurugram-122002

4. **ANIL MEHTA**

Son of Late Shri Raj Mehta,
R/o A-79, Golf View Apartments,
Saket, New Delhi-110017

.....Petitioners

Through: Mr. Yogesh Jagia, Mr. Rajeev Kumar
& Mr. Amit Sood, Advocates.

Versus

SHRI R.R. MEHTA EDUCATIONAL TRUST

Through its General Secretary – Mr. Hirdesh Bedi,
Having its registered Office at Red Roses Public School,
D-Block, Saket, New Delhi-110017

.....Respondent

Through: Mr. Sanjiv Kakra, Sr. Advocate with
Mr. Ayush Singhal, Advocate.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CM APPL. 63448/2024 (Exemption)**



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

CM APPL. 63449/2024

3. The present Application under Section 5 of the *Limitation Act, 1963* read with Section 151 of the *Code of Civil Procedure, 1908* ('CPC' *hereinafter*) has been filed on behalf of the Applicants-Revisionists seeking condonation of 189 days' delay in filing the present petition.
4. For the reasons and grounds stated in the present Application, the Application is allowed, the delay of 189 days in filing the present petition is hereby condoned.
5. Accordingly, the Application is disposed of.

C.R.P. 315/2024

6. The present Petition under Section 115 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC, 1908"*) read with Article 227 of the Constitution of India has been filed on behalf of the petitioners seeking to set aside the Order dated 11.01.2024 *vide* which the Application under Order VII Rule 11 of CPC, 1908 filed on behalf of the Revisionists-Defendants, has been dismissed.
7. Issue notice.
8. Mr. Ayush Singhal, learned counsel appearing on advance notice, accepts notice on behalf of the Respondent.
9. The Respondent-Plaintiff had filed the Civil Suit bearing No. CS SCJ 823/2022 seeking the relief of *Injunction* for restraining the Petitioners-Defendants from creating any hindrance in the working of the Governing Body of the Respondent/Plaintiff-Trust and for restraining the Petitioners-Defendants from removing any documents, records from its



registered Office or to represent themselves as Office Bearers of the Respondent-Plaintiff-Trust. Further, *relief has been sought that the Petitioner-Defendant No. 1-Anuradha Mehta be permanently restrained from representing himself as the Principal/Head of School of Red Roses Public School (hereinafter referred to as “RRPS”), Saket New Delhi and from entering the premises of RRPS. The Mandatory Injunction has also been sought to direct the Petitioner-Defendant No.1-Anuradha Mehta to hand over the records of the RRPS to the General Secretary of the Respondent-Plaintiff-Society.*

10. ***Briefly stated***, Smt. Ram Pyari during her lifetime, settled a Public Charitable Trust by the name of “*Shri R.R. Mehta Educational Trust*” i.e., the Respondent-Plaintiff-Trust herein, by way of a registered Trust Deed dated 18.04.1980 for the purpose of founding schools for education and training of boys and girls for educational pursuits and for spreading the knowledge amongst the younger generation and to open, run and constitute educational and vocational schools under the name of RRPS.

11. The first Primary School was established by the Respondent-Plaintiff-Trust under the name of RRPS in a rented accommodation at Malviya Nagar, New Delhi which got due recognition with the Directorate of Education, New Delhi Administration.

12. Somewhere around 1981-82, the Respondent-Plaintiff-Trust approached the Delhi Development Authority (DDA) for allotment of land at Saket for its School. The prevailing provisions of DDA (Disposal of Developed Nazul Land) Rules, 1981 stipulated that the Institutional land can be allotted only to a Society registered under the Society Registration Act, 1860 (*hereinafter referred to as “SRA, 1860”*). Accordingly, on



07.04.1982, the Respondent-Plaintiff-Trust passed a Resolution to register itself under the provision of SRA, 1860. The Respondent-Plaintiff-Trust nominated five of its Trustees as *permanent members* of the proposed Society and further nominated two other members to satisfy the requirements of seven members of SRA, 1860. *The Respondent-Plaintiff-Trust was granted registration as Society on 13.07.1982 vide Registration No. 12738/1982.*

13. The Respondent-Plaintiff-Society further applied for registration under Sections 12A/80G/10(23)(C)(vi) etc., of the Income Tax Act, 1961 as a Public Charitable Trust, and it was granted the registration *vide* Letter dated 11.10.1988.

14. The Respondent-Plaintiff-Society, thereafter, established more Schools under the name of RRPS and is running four Schools in Delhi and in Gurgaon.

15. The petitioner/ defendants questioned the competence of Shri Hirdesh Bedi to file the Civil Suit claiming himself to be the General Secretary of the Plaintiff-Society which according to them, is under a cloud.

16. The Respondent-Plaintiff-Society's claim was that the present Suit essentially relates to land of RRPS, D-Block Saket, Delhi which was allotted to it *vide* two Allotment Letters dated 21.04.1988 for 1.0 acre and 01.07.1992 for 0.5 acre.

17. According to the Respondent-Plaintiff-Society, the Petitioner-Defendant No. 2-Swadesh Kumar Nayyar is the oldest member of the Respondent-Plaintiff-Society and has been looking after the administration of RRPS at Saket, Delhi and her decisions were never questioned by other members of the Respondent-Plaintiff-Society who had been acting in good



faith.

18. The Respondent-Plaintiff-Society has claimed that on 04.04.2021, the meeting of the Governing Body of the Respondent-Plaintiff-Society was held through video conferencing wherein the Petitioners-Defendants explained that RRPS, Saket, Delhi was not generating sufficient funds to meet its liability.

19. In the next meeting held on 10.09.2021, the Petitioner-Defendant No.2-Sawdesh Kumar Nayyar proposed a meeting Agenda that the Petitioner-Defendant No. 4-Anil Mehta should be paid remuneration or his son, Mr. Arjun Mehta be inducted in his place. The Petitioner-Defendant No. 4-Anil Mehta withdrew his resignation offer and the members of the Governing Body rejected the Agenda regarding payment to Petitioner-Defendant No. 4-Anil Mehta as none of the members of the Governing Body were taking any salary or remuneration from the Respondent-Plaintiff-Society.

20. The Governing Body with a view to oversee the fund position of all the Schools and in particular, RRPS, Saket, constituted a Sub-Committee under Rule 18 of the Rules and Regulation of the Respondent-Plaintiff-Society, comprising Smt. Anjali Rai Mehta, Shri Hirdesh Bedi and the Petitioner-Defendant No. 4-Anil Mehta. The Sub-Committee time and again sought financial and administrative data to be shared with it so as to be able to work properly. However, the Petitioner-Defendant No. 1-Anuradha Mehta and the Petitioner-Defendant No. 2-Swadesh Kumar Nayyar failed to share any data.

21. On 19.12.2021, the new Governing Body of the Respondent-Plaintiff-Society was constituted and a new Sub-Committee was appointed to oversee



the task primarily related to the goal of improving the funds situation of RRPS, Saket. Smt. Anjali Rai Mehta, Shri Hirdesh Bedi and Shri Sanjay Mehta were made the Members of the Sub-Committee.

22. *According to the Respondent-Plaintiff-Society*, on 10.01.2022, the Minutes of the Meeting were fabricated and it was incorrectly recorded that the Petitioner-Defendant No. 2-Swadesh Kumar Nayyar and the Petitioner-Defendant No. 3-Krishna Nayyar were not present in the meeting during the Agenda discussion. Pertinently, the Minutes of Meeting held on 10.01.2022 were never shared with Shri Hirdesh Bedi and Smt. Anjali Rai Mehta for their signatures and approval.

23. The Respondent-Plaintiff-Society passed a Resolution dated 19.12.2021 for seeking records from the Respondent-Plaintiff-Society about RRPS, Saket, but the Petitioners-Defendants refused to cooperate with the Governing Members.

24. On 13.01.2022, the Notice was wrongly issued by the Petitioners-Defendant Nos. 1 to 3 to the Governing Body Members alleging that the Respondent-Plaintiff-Society had become defunct and was dissolved. As the elections for the Governing Body of the Respondent-Plaintiff-Society were due, the General Secretary on 17.01.2022 and as per the Rules and Regulations, issued a Notice calling for a General Body Meeting on 30.01.2022 at Noor Mahal Hotel, Karnal, Haryana, in which the elections for the Governing Body were to be held. Despite the said Notice, the Petitioners-Defendants failed to attend the meeting though they confirmed their attendance *via* E-mail on 23.01.2022. Consequent to the elections held on 13.02.2022, the new Governing Body of the Respondent-Plaintiff-Society was constituted with new Office Bearers.



25. Smt. Anjali Rai Mehta was appointed as the Chairperson of School Managing Committee of RRPS, Saket. The formation of the new Governing Body was also informed to the Registrar of Societies/SDM (HQ), M.B. Road, Saket, Delhi for updation of their records on 22.02.2022. Despite, knowing that the Petitioner-Defendant No.2-Swadesh Kumar Nayyar was no longer part of the Governing Body, he wrote a forged letter to the Office of the Registrar of Societies/SDM (HQ), M.B. Road, Saket, Delhi again claiming that the Respondent-Plaintiff-Society has become defunct and signed himself as the President of the Respondent-Plaintiff-Society.

26. On coming to know these facts, a *Cease and Desist Notice* was issued to the Petitioner-Defendant No.2-Swadesh Kumar Nayyar and Petitioner-Defendant No.4-Anil Mehta cautioning them not to represent themselves as the Office Bearers of the Respondent-Plaintiff-Society. An illegal meeting was held on 28.02.2022 which was attended by Petitioner-Defendant No.1-Anuradha Sharma and Petitioner-Defendant No.3-Krishna Nayyar, but did not include other members of the Respondent-Plaintiff-Society.

27. On 06.03.2022, another meeting of the Governing Body was proposed to be held at the Registered Office at RRPS, Saket, wherein the Agenda was for the extension of superannuation of the Petitioner-Defendant No.1-Anuradha Sharma was to be considered, but she wrote an E-mail that she would not allow the Governing Body members to enter the School. Despite this, the Governing Body Members reached the School for conducting the scheduled meeting, but they were not allowed any entry.

28. The Petitioner-Defendant No.2-Swadesh Kumar Nayyar and Petitioner-Defendant No.4-Anil Mehta submitted a Letter dated 14.03.2022 to the Office of the Registrar of Societies/SDM (HQ), Saket fully endorsing



the elections held on 13.02.2022 and withdrew their letters/representations/affidavits dated 16.02.2022, 25.02.2022, 03.03.2022 and 04.03.2022 as submitted by them. They also admitted that there was no dispute amongst the members of the Respondent-Plaintiff-Society. In a next meeting held on 09.04.2022 at RRPS, Saket, Petitioner-Defendant No.1-Anuradha Sharma admitted that she would not stop the Governing Body Members from entering the School premises.

29. On 14.05.2022 in the another meeting of the Governing Body held online, Petitioner-Defendant No.1- Anuradha Sharma, however, stated that she would not extend any cooperation and would not allow any Sub-Committee made by the Governing Body, to work. Keeping her conduct in view, the Resolution was passed by the Governing Body denying her extension.

30. On 25.05.2022, the efforts made for peaceful and amicable settlement with the Petitioner-Defendant No.1-Anuradha Sharma and Petitioner-Defendant No.3-Krishna Nayyar, proved to be futile. On 30.05.2022, Petitioner-Defendant No.1-Anuradha Sharma was issued a letter to handover the charge of the Principal to the Vice Principal in view of her superannuation on reaching the age of 60 years. The said Letter, however, was returned as the Petitioner-Defendant No.1-Anuradha Sharma refused to accept the same. It was served on her *via* E-mail. The efforts were made by the Governing Body on 31.05.2022 and again on 01.06.2022 to enter RRPS, Saket as a tenure of the Petitioner-Defendant No.1-Anuradha Sharma had ended and the charge to be taken over by Smt. Seema Chhibber, new Manager, as approved by the School Management Committee of RRPS, Saket, but, again they were not allowed to enter the School premises.



31. On 09.06.2022, the Petitioner-Defendant No.1-Anuradha Sharma sent a Notice for purported meeting to be held on 13.06.2022 at Milan Hall, 2nd Floor, JP Vasant Continental, Vasant Vihar, New Delhi claimed herself to be the Managing Trustee of the Respondent-Plaintiff-Society. The said Notice had been received only by the President of the Respondent-Plaintiff-Society on the E-mail and was not marked to the other members. The purported Notice was claimed to be *void ab initio* as per Rule 11 of the Rules and Regulations of Respondent-Plaintiff-Society and also because no Governing Body can be held without a Notice of minimum 10 days to all the members. Mere 4 days' Notice was contrary to the Rules of the Respondent-Plaintiff-Society.

32. The Respondent-Plaintiff-Society thus expressed its apprehension of Petitioners-Defendant actively conspiring to destroy or remove the records, mismanage the funds and damage the land and property of the Respondent-Plaintiff-Society. Therefore, the present Suit was filed on behalf of the Respondent-Plaintiff-Society.

33. ***The Petitioners-Defendants in their Written Statement*** had denied all the averments made in the plaint and in addition had taken the preliminary objections on which the Suit under Order VII Rule 11 read with Section 151 of CPC, 1908 was sought to be dismissed. The grounds so agitated are as under: -

- (i) That the Suit was barred by Law under Section 41(i) of the Specific Relief Act, 1963. No injunctory relief has been sought and the relief of simplicitor Injunction is not maintainable.
- (ii) That the Suit has been unauthorizedly instituted by Shri



Hirdesh Bedi alleging himself to be the General Secretary of the Respondent-Plaintiff-Society on the basis of a meeting of the Governing Body allegedly held on 13.02.2022.

- (iii) That the Suit seeking injunctive reliefs have the derivative objectives of causing division and partition of assets, immovable and moveable of Shri R.R. Mehta Educational Trust and is intended to forcibly and illegally take over the control and management of the School which is legally barred.
- (iv) That the true and correct material facts have been deliberately suppressed to subserve the ulterior motives of the members of the rival groups and the said persons are guilty of *suppresio veri* and *suggestion falsi*.
- (v) The Suit is liable to be dismissed for abuse of the process of law.
- (vi) That the Suit is not maintainable in its present form and form non-joinder of necessary and proper parties.
- (vii) That the Suit is barred by principles of estoppel, waiver and acquiescence as Shri Hirdesh Bedi in his Written Statement filed in CS SCJ 746/2022 has admitted that the Respondent-Plaintiff-Society herein is not a Society registered under the SRA, 1860.
- (viii) That the reliefs have been deliberately undervalued to avoid payment of requisite court fee.

34. *The learned Civil Judge* considered all the grounds and found him against the Petitioners-Defendants and rejected their Application under Order VII Rule 11 read with Section 151 of CPC, 1908 *vide* Order dated



11.01.2024.

35. Aggrieved, the present Revision Petition has been filed on behalf of the Petitioners-Defendants.

36. **Submissions heard.**

37. The *first objection* taken is that the Suit was without cause of action. The detailed reference may be made to the contents of the Complaint, wherein it had been explained that though initially a Trust was created, but because the allotment of land as per the DDA rules could be made only to a Society. The Trust was registered under the SRA, 1860 and the Certificate was duly granted Certificate dated 13.07.1982.

38. From the contents of the Complaint, it may be observed that the *Memorandum of Association* and *Rules and Regulations* as amended on 01.04.2022, reflected that main objective of the Society was to promote education amongst all the backward classes, particularly the depressed, financially weak and under-privileged sections of the society. The Minutes of the Meeting held on 10.09.2021 further reflected that the Respondent-Plaintiff-Society has been taking decisions with respect to the affairs of functioning of RRPS, Saket. The contents of the Complaint reveal that the cause of action is disclosed insomuch as the Respondent-Plaintiff-Society was seeking to restrain the Petitioners-Defendants from unnecessary interference in the affairs of the Respondent-Plaintiff-Society and to hand over the records in their possession.

39. It has been rightly concluded by the Ld. Civil Judge that the Complaint discloses cause of action and this ground was not maintainable.

40. The *second objection* taken is that the Suit was bad for non-joinder of parties. However, from the averments made in the Complaint, it was found that



though initially it was a Trust which was constituted but subsequently it got registered as the Society under SRA, 1860 and was managing the affairs of the School. It has thus, been rightly held by the Ld. Civil Judge that the Trust is neither unnecessary nor a proper party to the present Suit and this ground was rejected.

41. The *third objection* taken is that no Declaratory relief can be sought with respect to the Elections held on 23.02.2022 and that the suit was not maintainable in its present form. Further the pleadings, it is reflected that there was two factions/set of members who are claiming themselves to be legally constituted and elected members of the Respondent-Plaintiff-Society. One faction of the Respondent-Plaintiff-Society was relying on the Governing Body Meeting and election held on 13.02.2022 and elected Smt. Anjali Rai Mehta, Shri Tarun Mehta, Shri Hirdesh Bedi, Shri Sanjay Mehta, Shri Vikas Naglap, Shri Kishore Bedi and Shri Surinder Kumar Mehta, as the members of the Governing Body. These are all moot points which could not be considered at the stage of Order VII Rule 11 of Section 151 of CPC, 1908 as the Petitioner-Defendant No. 1-Anuradha Sharma is required to prove the authenticity of the elections allegedly held on 23.02.2022. This ground was also rightly rejected by the learned Civil Judge.

42. The *fourth objection* taken is that the Suit was barred under Section 25 of the *Delhi School Education Act, 1973* which provided that the jurisdiction of the Civil Court was barred. It is abundantly clear that Section 25 of the *Delhi School Education Act, 1973* only bars the jurisdiction of the Civil Court with respect to the matter in relation to the Administrator or the Director and functioning of the Administrator or the Director, but the dispute in the Suit relates to the elections of the members of the Governing



Body held on 13.02.2022 and 23.02.2022. Therefore, this ground was rightly rejected by the learned Civil Judge.

43. The *fifth objection* taken is that Shri Hirdesh Bedi had no authority to institute the Suit. However, as per the Petitioners-Defendants, he was elected as the General Secretary in the elections held on 13.02.2022 and being the General Secretary, he was authorised to institute the Suit in the name of Respondent-Plaintiff-Society in terms of Section 6 of SRA, 1860. Therefore, *prima facie*, it is shown that Shri Hirdesh Bedi has the authority to institute the Suit. This ground also was not substantiated by the Petitioners-Defendants.

44. The *sixth and last objection* taken is that the appropriate court fee has not been paid by the Respondent-Plaintiff-Society. The learned Civil Judge opined that as per the Complaint and the documents relied by the Respondent-Plaintiff-Society, the Suit had been valued properly. This ground also does not merit any interference.

Conclusion: -

45. In view of the foregoing discussions, there is no merit in the present Revision Petition and the Application under Order VII Rule 11 read with Section 151 of CPC, 1908 filed on behalf of the Petitioners-Defendants has been rightly dismissed by the learned Civil Judge.

46. Accordingly, the Revision Petition along with pending Application is hereby dismissed in the above terms.

**(NEENA BANSAL KRISHNA)
JUDGE**

OCTOBER 25, 2024
S.Sharma