

CS No. 266/18  
SANDHYA BINDAL Vs. RAMJAS SCHOOL

09.09.2020

**ORDER**

1. Vide this order, I shall dispose of an application under Order 7 Rule 11 r/w Section 151 CPC filed on behalf of defendant seeking rejection of plaint.
2. In the above said application, applicant has stated that the present suit is a suit for mandatory injunction filed by the plaintiff against the defendant. Present suit is liable to be dismissed under Order 7 Rule 11 CPC for the reason that suit is not maintainable in terms of the provisions of Section 25 of Delhi School Education Act, 1973. The above mentioned Section 25 bars the jurisdiction of the civil courts in the matter relating to schools. In view of the above, present suit is liable to be dismissed under Order 7 Rule 11.
3. Thereafter, plaintiff submitted oral reply to the above said application in which Ld. Counsel for plaintiff submitted that the present application is liable to be dismissed on the ground that the present suit has been filed with the prayer seeking mandatory injunction thereby directing the defendants to supply the plaintiff all the documents and materials as requested by her. Present suit is not outside the jurisdiction of the civil court because plaintiff is seeking enforcement of her principles of natural justice. Plaintiff was principal



of the defendant school and vide order dt. 25.07.2017 defendant school placed the plaintiff on suspension and on 04.10.2017, defendant served a charge sheet to the plaintiff containing numerous charges and seeking her reply. Further submitted that the said charge sheet was not accompanied by the statement of allegation of charges and nor any documents on which allegations were relied on. Hence, the present suit is not barred by Section 25 of Delhi School Education Act.

4. Thereafter, arguments were heard of both the parties. It was argued on behalf of Ld. Counsel for defendant/applicant that the document to which plaintiff is referring as charge sheet, was actually a show cause notice served upon the plaintiff.

The Ld. Counsel for applicant/defendant submitted that as per the provisions of Section 25 of Delhi School Education Act the present dispute should go to Delhi School Tribunal. As per Section 8 (3) of Delhi School Education Act, any employee of a recognized private school who is dismissed, removed or reduced in rank may within three months from the date of communication to him of the order of such dismissal removal or reduction in rank appeal against such order to the tribunal constituted under Section 11. In view of the above provision, the present matter should be brought before the tribunal constituted under the 25 of Delhi School Education Act and jurisdiction of civil courts in this matter is clearly barred.

5. Application perused. Submissions heard.

6. As per the provisions of Order 7 Rule 11 CPC court has power to reject the plaint if it appears that the suit is not maintainable or is





outside the jurisdiction of the Court. It is well settled law that while deciding an application under Order 7 Rule 11 CPC court has to see the plaint and the documents attached with it and nothing else. It is for the court to decide whether the plaint and such documents disclose cause of action in favor of plaintiff or not. For this court cannot look into the written statement or any document filed along WS by the defendant.

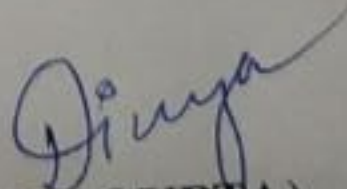
7. Also it is important to discuss the relevant provisions of Delhi School Education Act. One such relevant provision is contained in Section 25. **Section 25** of Delhi School Education Act states that "*no civil court shall have jurisdiction in respect of any matter in relation to which administrator or director or any other person authorized by the administrator or director or any officer or authority appointed or specified by under this Act is empowered by or under this act to exercise any power and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this act*". In the present application, plea for dismissal of the suit has been taken by the applicant/defendant on the ground of lack of jurisdiction of civil courts, the same can be tested on the provisions of Section 8 of Delhi School Education Act which specifies the terms and conditions of the employees of recognized private schools. Further Sub Section 3 of Section 8 thereof provides that any employee of a recognized private school who is dismissed, removed or reduced in rank may within three months from the date of communication of such order of dismissal to him, appeal against the same to the tribunal constituted under Section 11, namely the Delhi School Tribunal. In the



present matter the plaintiff Smt. Sandhya Bindal has not sought redressal in respect of any grievance pertaining to her suspension from the designated tribunal. The jurisdiction of civil court is excluded by Section 25 in respect of all the matter in relation to which the administrative or the director or such other person as mentioned therein is empowered to exercise any power. The same view has been upheld by the Hon'ble Supreme Court in the case *TMA Bai Foundation vs. State of Karnataka AIR 2003 SC 355*.

8. In view of the above discussion, court is of the view that present suit is outside the jurisdiction of civil courts as same has been exclusively barred by 25 of Delhi School Education Act. As per Section 9 of CPC the civil court shall have jurisdiction to try all the suits of civil nature except suits of which their cognizance is either exclusively, expressly, or impliedly barred. In the present matter jurisdiction of civil courts has been expressly barred under 25 of Delhi School Education Act and the same is vested with the Delhi School Tribunal constituted under Delhi School Education Act, 1973.

9. Hence, the present application under order 7 rule 11 C.P.C. is disposed of as allowed and plaint is hereby rejected for lack of subjective jurisdiction. Parties to bear their own costs. Let decree sheet be prepared accordingly.

  
(DIVYA GUPTA)

CIVIL JUDGE-03-C/THC

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**HEARD THROUGH PHYSICAL HEARING.**

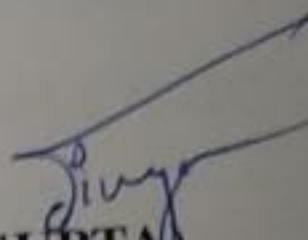
Present : None.

Vide my separate order, application under Order 7 Rule 11 CPC is allowed and disposed of.

Thereby plaint of the plaintiff has been rejected on the ground that suit is not maintainable as jurisdiction of the court is barred.

Let decree sheet be prepared accordingly.

**File be consigned to Record Room after necessary compliance.**

  
(DIVYA GUPTA)

CIVIL JUDGE-03-C/THC

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