

**Sh Mahtab Singh
Vs.
Joginder Singh Mann**

02.08.2023

Present: Ms. Nishima Arora, Ld. Counsel for the plaintiff along with
plaintiff in person.

Mr. Jai Ram Garg, Ld. Counsel for the defendants.

Replication filed on behalf of the plaintiff along with reply to the
application of the defendant under Order 7 Rule 11 CPC. Same is taken on record.
Copy supplied.

Ld. Counsel for the plaintiff has also filed the certificate under Section
65B of the India Evidence Act.

Arguments heard on the application of the defendants under Order 7
Rule 11 CPC.

Be put up for orders on the aforesaid application at 4:00 PM.

**Shivali Bansal
ADJ-03, Rohini Courts
North District, Delhi**

02.08.2023

AT 4:00 PM.

Present: None.

1. Vide this order, I shall be disposing of the application of the defendants
under Order 7 Rule 11 CPC.
2. Ld. Counsel for the defendants in his application has stated that the plaintiff
has filed the present suit without any cause of action. It is stated by him that

the son of the plaintiff had appeared in the board exam as student of defendant's school on issuance of admit card and school leaving certificate. Thus, the case of the plaintiff that the son of the plaintiff had left the studies in mid season of academic year 2019 is incorrect as the plaintiff has passed out from the school of the defendant only. It is stated that the plaintiff has not approached the court with clean hands and has suppressed the very material facts. The defendant has stated the true narration of facts as per him, which is in the nature of defence.

3. The brief facts of the case as stated by the plaintiff in his plaint are that the son of the plaintiff, namely, Master Goran Chikara was a newly admitted student in class 10th in year 2018. The plaintiff has secured the admission in the school upon payment of hefty fee amount. It is stated that his minor son was ragged, sexually assaulted and had suffered injuries, as he was badly beaten up by the school kids on 27.11.2018. The school authorities had initially taken action against the erring students but later on, the order of rustication against the said students was withdrawn and they were reinstated in the school. To ensure safety of the minor child, the plaintiff brought his son back from the school hostel. Thereafter, the son of the plaintiff did not attend the school on regular basis and had not even remained in the hostel apprehending the danger to his life. However, the son of the plaintiff had appeared for his 10th board examination through the same school. The present suit is filed by the plaintiff to recover / refund the fees paid by him.

Heard. Record Perused.

4. On perusal of the plaint along with the documents, it cannot be said that no cause of action has arisen in favour of the plaintiff. It is a trite law that at the stage of an application under Order 7 Rule 11 CPC, the court is not allowed

to look into the defence of the defendant. Moreover, it is the duty of the school to ensure safety and security to the students studying therein. The meaning of education cannot be construed narrowly so as to include only giving of exams but is about the holistic development of the child which would include within its purview attending classes, participating in activities of school, comity of relations between the students and lastly, having faith upon the school administration, therefore, at this stage, this court is not inclined to hold that there is no cause of action against the defendant. Accordingly, the application of the defendants under Order 7 Rule 11 CPC is **dismissed**.

Be put up for filing of replication, if any as well as admission/denial and framing of issues on **05.10.2023**.

Shivali Bansal
ADJ-03, Rohini Courts
North District, Delhi

02.08.2023