

CS (Comm.) No. 249/2025
M/s R. K. & Sons Jewelers Vs. M/s Heera Jewels & Gems

13.08.2025

Present: Sh. Arjun Bhaskar & Ms. Kiran Rathor Ld. Counsels
for the plaintiff.

Sh. Sachin Aggarwal Ld. Counsel for the defendant.

Sh. Aditya Chaudhary Ld. Counsel for the defendant
through VC.

Ld. Counsel of both the parties pointed out that the matter could not be settled in Mediation, therefore, the court may proceed further.

The report from the Mediation Centre is yet to be received. There is nothing on record to disbelieve the submissions made by the Ld. Counsels of both the parties regarding non-settlement of the case in Mediation. As and when the report is received from the Mediation Centre, same be placed on record.

List of documents on behalf of the plaintiff filed. It is stated that the copy of the same has already been given to the opposite counsel. Ld. Counsel for the plaintiff submits that this is the list only and the documents have already been filed. That being so, the same is taken on record.

From the record it is evident that following applications are pending for disposal:

- 1. Application under Order VIII Rule 1 read with Section 151 CPC seeking condonation of delay of 21 days in filing the written statement, moved on behalf of the defendant.*
- 2. Application under Order XI Rule 4 CPC seeking*

permission of the court to place on record certain documents as mentioned therein, moved on behalf of the plaintiff.

3. *Application under Order VII Rule 11 read with Section 151 CPC seeking rejection of the plaint, moved on behalf of the defendant.*

As far as first two applications moved on behalf of the defendant and the plaintiff are concerned, Ld. Counsels appearing for both the parties submitted that they do not have any objection in case the aforesaid applications are allowed.

In view of the submissions made and the no objections from the opposite counsel, the application of the defendant moved under Order VIII Rule 1 read with Section 151 CPC is allowed, whereby the delay of 21 days in filing the written statement is condoned. The written statement filed by the defendant is taken on record.

It is stated that copy of the written statement has already been given to the Ld. Counsel for the plaintiff. That being so, the plaintiff shall file the replication and affidavit of admission and denial of documents within next three weeks with an advance copy to the opposite counsel.

The application of the plaintiff moved under Order XI Rule 4 CPC, in view of the no objection from the opposite counsel, is also allowed, whereby the documents, as mentioned in the application, are taken on record.

Coming to the application of the defendant moved under Order VII Rule 11 read with Section 151 CPC, the defendant has challenged the maintainability of the present suit basically on two grounds i.e. *firstly*, the present suit is hit by the

provision of Section 69 (2) of Partnership Act and *secondly*, the suit is barred by limitation.

During the hearing on the aforesaid application, it was pointed out that the aforesaid two objections cannot be decided at this stage and the same require the trial of the present case. Ld. Counsel for the defendant submitted that he has no objection if the aforesaid issues are decided later on once the trial is complete. He further submitted that in this regard, requisite issues may be framed by this court.

I am also of the opinion that the issues raised by way of the instant application, would be adjudicated upon effectively once both the parties have led their evidences. Although, the plaintiff has filed the copy of registration of the plaintiff firm, *prima facie* indicating that plaintiff is a registered partnership firm, but that document can be proved during the trial only. Similarly, the issue of limitation is also a mix question of law and facts. Thus, the present application of the defendant is **disposed off** with a direction that requisite issues shall be framed at the time of settlement of issues.

All the aforesaid three applications are disposed off accordingly.

Now put up for **settlement of issues** on **09.09.2025 at 12:00 Noon**.

Date has been given absolutely as per the convenience of Ld. Counsel of both the parties.

(Rajesh Kumar Goel)
District Judge (Commercial Court)-02
Central District, Tis Hazari Courts, Delhi
13.08.2025