

IN THE COURT OF MS. MEENU KAUSHIK
DISTRICT JUDGE – 03, NEW DELHI DISTRICT
PATIALA HOUSE COURT

CS 1155/18

Prakash Brothers

...Plaintiff

Versus

Kapoor Book and Stationary

Company Pvt. Ltd.

...Defendant

ORDER

1. By way of this order I shall dispose of application moved by the defendant under Order VII Rule 11 r/w Section 151 of CPC.

2. Arguments on application have already been heard.

3. It is submitted on behalf of defendant that present suit pertains to commercial transaction between the parties wherein plaintiff had supplied books to the defendants and the defendants had been diligently making part payment in lieu of such supplied goods. It is further stated that present suit is instituted for recovery of sum of monies due on account of defendants owing to such supply of books made to the defendants. It is further stated that the plaintiff has nowhere stated that it is a registered partnership firm registered with the Registrar of firms as required under the Indian Partnership Act, 1932.

4. It is further argued that no document to the effect that the person who has filed the suit has filed under the capacity of being partner is placed on record. It is further argued that as per Section 69 of the Indian Partnership Act, 1932, there is bar on filing a suit by an unregistered partnership act qua any contractual obligation. Section 69 of the Partnership Act states that:

a) No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Registrar of Firms as a partner in the firm.

b) No suit to enforce a right arising from a contract shall be instituted in any court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.

5. It is argued that since as per the requisite of the Indian Partnership Act, 1932, an unregistered partnership firm cannot sue on its own accord for any contractual obligations as such, the present suit is hit by the mandate of Section 69 of the Indian Partnership Act and therefore is liable to be dismissed.

6. Per contra, it is argued by ld. counsel for plaintiff that present suit is filed for recovery of sum of Rs. 5,77,585/- being balance payment due arising out of purchased goods (books by the defendants on 14.05.2015). It is further stated that with respect to the balance amount, one cheque was handed over by the defendants and the same was got dishonoured upon presentation. It is further stated that upon dishonour of the cheque, defendants had sought apology and assured the plaintiff

that outstanding amount would be paid to the plaintiff at the earliest. It is further stated that since despite service of legal notice, no payment was made by the defendants, present suit was filed. It is further stated that in order to circumvent the legitimate dues of the plaintiff, defendants have moved the present application. It is further stated that statutory rights of the plaintiff have been violated by the defendants and the claim of plaintiff does not arise from any contract, but arises under Section 30 and 37 of Negotiable Instruments Act and hence, the present suit is not hit by Section 69(2) of the Partnership Act.

7. Arguments addressed on behalf of the parties are taken into consideration. Record perused.

8. In *M/s Hindustan Infrastructure Construction Corporation Limited and anr. V. M/s R.S.Woods International and others* (2018), decided by Hon'ble High Court of Delhi it was held that an unregistered partnership firm is not barred from filing a law suit regarding the dishonour of a cheque. It was further held that such an action is not "*suit to enforce a right arising from a contract under sec. 69*" but rather a legal proceeding regarding a statutory liability.

9. In view of the observation made by the Hon'ble High court of Delhi in the above mentioned case, the court is of considered opinion that the present suit prima facie is not hit by Section 69 of the Indian Partnership Act. Thus, the application of the defendant stands disposed of as not allowed.

***(Announced in the open Court
on 02nd, APRIL, 2026)***

**(Ms. Meenu Kaushik)
DJ-03, New Delhi District
Patiala House Courts
New Delhi**