

28 CS DJ ADJ 456/25 SATBIR SINGH Vs. ANURADHA KUMAR

24.03.2026

**One of the Regular Stenographers is on paternity leave from 20.02.2026 till 03.04.2026.**

Present: Sh. Priyansh Bhardwaj, Ld. proxy counsel for plaintiff.  
None for defendant.

Vide this common order, this court shall decide five separate applications moved u/o VII Rule 11 CPC on the behalf of defendants.

As per the applications, the plaint of the plaintiff deserves rejection as it is barred by law and also needs to be referred to arbitral board for dispute resolution.

Perusal of the record shows that there are five defendants, out of which Anuradha Kumar and Rajesh Kumar are defendant no. 1 and 2.

Out of five applications, two applications have been moved on the behalf of defendant no.1 &2 on the ground that the partnership deed that has been relied upon by the plaintiff specifically provides that in case of any dispute, the same will be referred to an Arbitrator in accordance with the Arbitration and Conciliation Act, 1996.

The application moved on behalf of Mrs. Manswani Saxena, Mohd. Shamim and Hemant Kumar presses into service a common ground of them being not a party to the partnership deed dated 24.10.2021 and there being no allegations against them to justify their impleadment. It is further stated that as there is arbitration clause in the said partnership deed, the dispute be referred to the Arbitrator in accordance with the terms of the deed.

Reply has been filed on the behalf of plaintiff according to which the application deserves outright dismissal. In reply it is stated that the social media account of 'The Orchard' was maintained by defendant no.4 and specific averments have been made against all the parties.

Arguments heard. Record perused.

Perusal of the plaint shows that the suit has been filed for recovery of Rs. 35 lacs. The case of the plaintiff is that plaintiff's wife is the owner of the land situated at village Kuleth, District Sirmor Himachal Pradesh, which was leased to plaintiff and defendant via partnership deed dated. 03.08.2021 for a mutually agreed sum of Rs. 1,50,000/- per month.

It is stated that defendant no. 2 is the husband of defendant no. 1 and defendant no. 3 is the son of defendant no. 1 and 2 whereas defendant no. 4 is the wife of defendant no. 3. It is stated that as per the partnership deed both plaintiff and defendants have agreed to run a homestay with the name & style of 'The Orchard' in the property leased and have agreed for bearing the cost in 50-50% ratio for day to day liabilities and their share in the profit and loss was also to be 50-50 %. It was mutual understanding between the parties that defendants had to take necessary permissions and approvals and all booking through Facebook and Instagram were to be done through a particular mobile number. It is stated that defendant no. 1 maliciously misappropriated the funds in her own account, connected to mobile number and her UPI ID also in cash from the client. The mobile number on which bookings were to be made was under the control of the defendants and it was registered in the name of Defendant no. 5. Defendant no. 3 used to handle bank account of the Orchard. Defendant No.4, the daughter in law of defendant no.1 & 2, was managing the social media account of 'The Orchard'.

Perusal of partnership deed shows that the last clause of the partnership deed states that all disputes in connection with the partnership deed shall be referred to the Arbitration in accordance with Arbitration and Conciliation Act, 1996.

In this regard, counsel for plaintiff has relied upon certain judgments i.e. *Sukanya Holdings Pvt. Ltd. vs. Jayesh Pandya AIR 2003 SC 2252* and *Tirupati Vancom Pvt. Ltd. vs. James Glendye and Company Pvt. Ltd. (Calcutta High Court) CS Com/70/2025*.

*Per Contra* defendants have relied upon judgments such as *Madhu Sudan Sharma and Others vs. Omaxe Ltd. 2023 SCC OnLine Del 7136*, and *Sundaram Finance Limited and Another vs. T Thankam (2015) 14 SCC 444*

In *Sukanya Holdings* Hon'ble Supreme Court of India observed as following:

*“Secondly, there is no provision in the Act that when the subject matter of the suit includes subject matter of the arbitration agreement as well as other disputes, the matter is required to be referred to arbitration. There is also to provision for splitting the cause or parties and referring the subject matter of the soot to the arbitrators.*

*Thirdly, there is no provision as to what is required to be done in a case where some parties to the suit are not parties to the arbitration agreement. As against this, under Section 24 of the Arbitration Act, 1940, some of the parties to a suit could apply that the matters in difference between them be referred to arbitration and the Court may refer the same to arbitration provided that the same can be separated from the rest of the subject matter of the suit. Section also provided that the suit would continue so far as it related to parties who have not joined in such application.*

*The relevant language used in Section 8 is “in a matter which is the subject matter of an arbitration agreement, Court is required to refer the parties to arbitration. Therefore, the suit should be in*

*respect of a matter which the parties have agreed to refer and which comes within the ambit of arbitration agreement. Where, however, a suit is commenced as to a matter which lies outside the arbitration agreement and is also between some of the parties who are not parties to the arbitration agreement, there is no question of application of Section 8. The words "a matter" indicates entire subject matter of the suit should be subject to arbitration agreement.*

*The next question which requires consideration is even if there is no provision for partly referring the dispute to arbitration, whether such a course is possible under Section 8 of the Act? In our view, it would be difficult to give an interpretation to Section 8 under which bifurcation of the cause of action that is to say the subject matter of the suit or in some cases bifurcation of the suit between parties who are parties to the arbitration agreement and others is possible. This would be laying down a totally new procedure not contemplated under the Act. If bifurcation of the subject matter of a suit was contemplated, the legislature would have used appropriate language to permit such a course. Since there is no such indication in the language, it follows that bifurcation of the subject matter of an action brought before a judicial authority is not allowed.”*

I have also perused the judgments relied upon by the defendants. However, none of them deals with the issue whether a matter involving non-parties can be referred to Arbitration by dint of the fact that some of the parties have an arbitration agreement between them.

In the present case, plaintiff has filed this suit alleging cheating and dishonesty on part of defendant no. 1 to 4 and def. no. 5. Defendant no. 1 and 2 were the party to the agreement , whereas defendant no. 3 is said to be handling bank account of 'The Orchard' whereas defendant no.4 was running the social media account of 'The Orchard' and on mobile number of defendant

no. 5, bookings were being received. The suit has mainly been filed on the the ground that defendants have committed cheating and breach of trust against the plaintiff. It is clear that the subject matter of the present suit is outside the ambit of arbitration agreement and as it also involves some of the non-parties to the arbitration agreement there is no question of application of Sec. 8 of Arbitration and Conciliation Act.

As far as defendant 3, 4 & 5's contention of there being no specific allegation against them is concerned, this issue can't be decided in while deciding an application under Order VII rule 11. In such a situation, if defendants are so advised they would be at liberty to moved an application u/o I Rule 10 CPC.

In view of the above discussion, all the applications u/o VII Rule 11 CPC moved on behalf of defendants are dismissed.

List for further proceedings on **02.06.2026**.

(Abhitosh Pratap Singh Rathore)  
DJ-05 (SW)/Dwarka Courts  
New Delhi: 24.03.2026