



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT MUDIGERE

Present: Sri. Prakash.P.M M.B.A., LL.B.,
Senior Civil Judge & JMFC.,
Mudigere.

Dated this the 18th day of November 2025

O.S. No.44/2025

Plaintiff: **M/S. KALASA ESTATE,**
A registered Partnership Firm
Having its Office at
Kalasa Estate, Kalasa Taluk,
Chikkamagaluru District-577 124

Rep. by its Working Partner

Sri S. Alaghu Vairam

S/o. So. S. Sockalingam

Aged about 31 years,

[By Sri. A.S., Advocate]

V/s.

Defendants: **1. Sri. Mohammed Harris,**
Aged about 55 years,
S/o. Mohammed Sadiq Siddiq,
R/at "Royal Benshood",
No.90, Nagenahalli Cross Bus Stop,
Kannur Post, Bagalur,
Bengaluru-562 149.

2. M/S. Assa Real Estate PVT. LTD.,
A Company incorporated under
the Companies Act.



Having its registered Office
at No.18, 1st Floor, 7th Main Road,
HRBR Layout, Kalyananagara,
Bengaluru-560 043.

Rep. by its Director, Sri Sundar,
Aged about 52 years

[D1 By Sri. M.V.J./A.B.M., Advocate,
D2 By Sri. K.S.A/K.C.C.]

RANK OF PARTIES IN IA.NO.IV

Applicant: Sri. Mohammed Harris,
defendant No.1

V/s.

Opponent: M/s. KALASA ESTATE,
plaintiff A registered Partnership Firm

1	Provisions under which the application is filed	Under order VII rule 11(a) R/w Sec. 151 of CPC
2	Relief sought for	Rejection of plaint
3	The date on which the application is filed	12.09.2025
4	Number of the application	I.A.No.IV
5	Date on which the objection filed by opponents	12.09.2025
6	The date on which the order passed on the application	18.11.2025



RANK OF PARTIES IN IA.NO.VI

Applicant: Sri. Mohammed Harris,
defendant No.1

V/s.

Opponent: M/s. KALASA ESTATE,
plaintiff A registered Partnership Firm

1	Provisions under which the application is filed	Under order XXX rule 2(2) R/w Sec. 151 of CPC
2	Relief sought for	Maintainability of suit
3	The date on which the application is filed	18.10.2025
4	Number of the application	I.A.No.VI
5	Date on which the objection filed by opponents	Memo filed to treat plaint averments, documents and objection to IA No. IV as objection to IA No.VI
6	The date on which the order passed on the application	18.11.2025

RANK OF PARTIES IN IA.NO.VII

Applicant: Sri. Mohammed Harris,
defendant No.1

V/s.



Opponent: M/s. KALASA ESTATE,
plaintiff A registered Partnership Firm

1	Provisions under which the application is filed	Under order XXX rule 2(2) R/w Sec. 151 of CPC
2	Relief sought for	Stay the suit
3	The date on which the application is filed	18.10.2025
4	Number of the application	I.A.No.VII
5	Date on which the objection filed by opponents	Memo filed to treat plaint averments, documents and objection to IA No. IV as objection to IA No.VI
6	The date on which the order passed on the application	18.11.2025

Senior Civil Judge and JMFC,
Mudigere

**ORDERS ON I.A.NO. IV, VI and VII FILED BY THE
DEFENDANT No.1**

I.A.No.IV filed by the defendant No.1 U/o VII rule 11(a) and (d) R/w Sec 69 of partnership Act to reject the plaint as barred by law under order XXX rule 1 and 2 of CPC as all the partners of the firm are not made parties



representing the plaintiff's firm to the suit as mandated under law.

2. I.A.No.VI filed by the defendant No.1 U/o XXX rule 2(2) R/w Sec 151 of CPC to decide the maintainability of suit.

3. I.A.No.VII filed by the defendant No.1 U/o XXX rule 2(2) R/w Sec 151 of CPC to stay the suit as partnership firm is not in existence and details furnished by the plaintiff are incorrect and contrary to the government records, since all partners are retired from plaintiff firm recorded in the registration firm.

4. In the affidavits annexed with IA No.IV, VI and VII defendant No.1 stated that, M/S Kalasa Estate is a Partnership firm is represented by sole partner namely Sri. S. Alaghu Vairam and the entire plaint pleadings and verifying affidavit, statement of truth and all the applications are signed and executed by a sole partner which is bad and suit is not maintainable under law and plaint is liable to be rejected as sole person cannot be a partnership firm. On careful perusal of the plaint and plaintiff's document No.1 and 2, "Deed of Retirement and



Deed of Reconstitution of the Partnership firm -Kalasa Estate" dated 8.11.2023, there are 3 partners namely S. Alaghu Vairam, Kapil Agro farm India Pvt Ltd, and Mr. Shaik Suleman, who are not made as partners in the present suit, hence the plaint is liable to be rejected. Plaint averments are only signed and verified by a single partner in a suit filed a partnership firm is not maintainable as mandated under order 30 rule 1 and 2 of CPC all the partners should be made as a party to the suit is not maintainable under law. There is no cause action & barred by section 69 of partnership Act, the document No.1 is not registered to make claim against the third parties, which is only relief can be made only within the partners. Hence prays to reject the plaint.

5. On the other hand plaintiff has filed objection to the IA No.IV contending that, the application is not maintainable. Plaintiff firm is represented by a Sole Partner namely Sri. S. Alaghu Vairam, and the entire pleadings and verifying affidavit, statement of truth and all applications are signed and executed by a sole partner is wholly incorrect and misleading. Defendant has mischievously described the plaintiff as being represented by a "Sole



Partner". The Cause title clearly shows that the plaintiff is a registered partnership firm, represented by its Working Partner Sri. S. Allaghu Vairam. Further submitted that Working Partner Sri. S. Allaghu Vairam is authorized by other partners to represent on behalf of plaintiff firm. Further submitted that under Order XXX Rule 1 CPC, a partnership firm can sue or be sued in its firm name. It is well settled that it is not mandatory to array all partners individually as parties to the suit. Order XXX Rule 2 CPC provides that on demand by the Defendant, the names and addresses of the partners may be disclosed, but this does not render the plaint defective or liable for rejection. Moreover, the Defendants have been served with latest reconstitution deed of partnership along with other documents. Plaintiff firm M/s. Kalasa Estate is a duly registered firm under the Indian Partnership Act, 1932. Dated 06.12.1968. It is submitted that registration of the firm is sufficient compliance with Sec. 69 of Partnership Act. Sec. 69 of Partnership Act just requires the firm to be registered. The plaint clearly discloses a valid cause of action. The contention of defendant No.1 that there is no cause of action is wholly misconceived. At this stage, only



plaint averments are to be considered and they sufficiently disclose the cause of action. Hence prays to dismiss the IA No. IV.

6. The learned counsel for the plaintiff has filed memo to treat plaint averments, documents and objection to IA No. IV as objection to IA No.VI and VII.

7. Heard the learned counsel for the plaintiff and defendant No.1. Perused the written notes of arguments furnished by both the sides and perused the materials on record.

1. Whether defendant No.1 has made out sufficient grounds to reject the plaint?
 2. Whether the defendant No.1 prove that the suit is not maintainable?
 3. Whether the defendant No.1 has made out sufficient grounds to stay the suit?
 4. What order?
8. My findings on the above Points are as below:
- Point No.1 : In Negative.



Point No.2 : In Negative.

Point No.3 : In Negative.

Point No.4 : As per final orders
for the following:

R E A S O N S

9. Point Nos.1 to 3: These points are inter related to each other in order to avoid the repetition they are taken together for discussion.

10 The defendant No.1 has filed IA.No.4 U/o 7 rule 11(a) of CPC praying to reject the plaint and defendant No.1 has filed I.A.No.VI U/o XXX rule 2(2) R/w Sec 151 of CPC to decide the maintainability of suit and defendant no.1 has also filed I.A.No.VII U/o XXX rule 2(2) R/w Sec 151 of CPC to stay the suit as partnership firm is not in existence and details furnished by the plaintiff are incorrect and contrary to the government records, since all partners are retired from plaintiff firm recorded in the registration firm.

11. The defendant No.1 contented that, M/S Kalasa Estate is a Partnership firm is represented by sole partner namely Sri. S. Alaghu Vairam and the entire plaint pleadings and verifying affidavit, statement of truth and all



the applications are signed and executed by a sole partner which is bad under law. The document No.1 and 2, "Deed of Retirement and Deed of Reconstitution of the Partnership firm -Kalasa Estate" dated 8.11.2023, there are 3 partners namely S. Alaghu Vairam, Kapil Agro farm India Pvt Ltd, and Mr. Shaik Suleman, who are not made as partners in the present suit, hence the plaint is liable to be rejected. Plaint averments are only signed and verified by a single partner in a suit filed a partnership firm is not maintainable as required under order 30 rule 1 and 2 of CPC all the partners should be made as a party to the suit. There is no cause action & barred by section 69 of partnership Act, the document No.1 is not registered to make claim against the third parties. Hence, on these grounds he prays to allow the applications.

12. Here, the plaintiff has filed under Section 6 of the Specific Relief Act, 1963 seeking restoration of possession of the suit schedule properties alleging that it was unlawfully dispossessed therefrom by the defendants on dated 13.04.2025. It is the case of the plaintiff that the plaintiff is a registered partnership firm and it is represented by its working partner Mr. Alughu vairam, who



is empowered to represent the plaintiff being working partner of the plaintiff firm.

13. Now, it is the specific contention of the the defendant No.1 that, all the partners of the firm are not made parties representing the plaintiff's firm to the suit as mandated under law and thus suit is barred by order XXX rule 1 and 2 of CPC and there is no cause action & barred by section 69 of partnership Act., Thus, at this juncture it is very much relevant here to refer,

ORDER XXX Rule 1 AND 2– Suits by or against Firms and Persons carrying on Business in Names other than their own

Rule 1: Suing of partners in name of firm—

(1) Any two or more persons claiming or being liable as partners and carrying on business in India may sue or be sued in the name of the firm (if any) of which such persons were partners at the time of the accruing of the cause of action, and any party to a suit may in such case apply to the Court for a



statement of the names and addresses of the person who were, at the time of the accruing of the cause of action, partners in such firm, to be furnished and verified in such manner as the Court may direct.

(2) Where persons sue or are sued as partners in the name of their firm under sub-rule (1), it shall, in the case of any pleading or other document required by or under this Code to be signed, verified or certified by the plaintiff or the defendant, suffice if such pleading or other document is signed, verified or certified by any one of such persons.

Rule 2: Disclosure of partners' names

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(1) Where a suit is instituted by partners in the name of their firm, the plaintiff or their pleader shall, on demand in writing by or on behalf of any defendant, forthwith declare in writing the



names and places of residence of all the persons constituting the firm on whose behalf the suit is instituted.

(2) Where the plaintiff or their pleader fails to comply with any demand made under sub-rule (1), all proceedings in the suit may, upon an application for that purpose, be stayed upon such terms as the Court may direct.

(3) Where the names of the partners are declared in the manner referred to in sub-rule (1), the suit shall proceed in the same manner, and the same consequences in all respects shall follow, as if they had been named as plaintiffs in the plaint:

Provided that all proceedings shall nevertheless continue in the name of the firm, but the name of the partners disclosed in the manner specified in sub-rule (1) shall be entered in the decree.



14. On careful reading of the above provisions of law, it is clear that, when two or more persons are partners and carry on business in a firm name, they may file a suit in the firm name. Similarly, they may be sued in the firm name. The opposing party may, by written request, ask the firm to disclose the names and addresses of all partners. The firm must comply. This ensures transparency and allows the decree to be executed against individual partners. If the plaintiff fails to comply with the defendant's demand to disclose partners' names, the court may stay all proceedings in the suit.

15. Admittedly, the document No.1 and 2, "Deed of Retirement and Deed of Reconstitution of the Partnership firm -Kalasa Estate" dated 9.11.2023 and form No.V, reveals that there are 3 partners in the plaintiff firm namely S. Alaghu Vairam, Kapil Agro farm India Pvt Ltd, and Mr. Shaik Suleman, who are not made as partners in the present suit. Here, in this case suit has been instituted in the name of firm, represented by Sri S Alagu vairam, a continuing partner sine 23.06.2022. Further the plaintiff has furnished the name and addresses of the other partners of the firm by filing memo. Thus, it is clear that plaintiff has



complied the condition as required under Order 30 Rule 2(1) of CPC by furnishing the details of other partners.

16. Further, upon careful perusal of copy of the acknowledgment of registration of firm placed by the plaintiff shows that Kalasa Estate firm was registered on 06.12.1968. The copy of the Deed of Reconstruction dated 12.06.2022 shows that, S.Shiva Subrahmanian S/o Sockalingam retired and S.Alugavairam and Sivasubramaniyam were inducted as partners, the copy of reconstruction deed dated 09.11.2023 reveals that M.S. Kapil Agro Farm India Pvt. Ltd. and Mr. Sheik Sulaiman were inducted as partners and S. Sivasubramanian retired. S. Alagu vairam continues as partner. Thus, it is clear that reconstruction of firm is only modified and construction of firm is not modified and thus the registration of firm continues to remain valid.

17. Further, the copy of form No.A placed by the plaintiff Would reveal that, Plaintiff has duly Complied With Section 63(1) of partnership Act by filing Form-V before the registrar of firms on dated 02.05.2025 along with reconstituted deed of partnership. Further form No.A



reveals that the registrar of firms registered the reconstituted deed dated 07.11.2023 on dated 27.10.2025.

18. Another aspect urged by the defendant No.1 is that, the suit is barred by section 69 of partnership Act, the document No.1 i.e., the deed of retirement and re-constitution of the partnership firm dated 09.11.2023 is not registered to make claim against the third parties, which is only relief can be made only within the partners. Thus, at this juncture it is very much relevant to refer Section 69 of the Partnership Act which reads as—

69. Effect of non-registration.—

(1) 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 Register of Firms as a partner in the firm.



(2) 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.

19. On careful reading of the above provisions of law, it is clear that, A partner cannot sue the firm or another partner for rights arising from a contract or the Act unless the firm is registered and the partner is listed in the Register of Firms and an unregistered firm cannot sue a third party to enforce any right arising from a contract.

20. Here, in this case the plaintiff Firm was registered on dated 06.12.1968 and S. Alaghu Vairam the person representing firm is a continuing partner and Form No.V is duly acknowledged by the registrar of firms. Thus, the contention of defendant No.1 that, the deed of retirement and re-constitution of the partnership firm dated 09.11.2023 is not registered and the suit is barred under section 69 of partnership Act appears to be incorrect.



21. Further, the learned counsel for Defendant no. 1 in support of his contention has relied upon the judgment of Hon'ble Supreme Court reported in (1989) 3 SCC 476 in between **M/s. Shreeram Finance Corporation v. Yasin Khan and others**. Wherein it is held that,

**Partnership Act, 1932, Section 69 (2)-
Firm constituted prior to the date of filing
suit by the firm/against a third party. But
notice regarding the reconstitution given to
the register of firms and note taken
accordingly in register of firms. Subsequent
thereto- Held suit is contravention of
Section 69(2). Hence not maintainable.
Even though plaint was amended on the
later date, that cannot save the suit.**

22. I have gone through the above judgment carefully but the, the facts and circumstances of the present case are quite different from those in the judgment reported in 1989 (3) SCC 476. In the said case, the notice of change of constitution of the firm was given to the registrar after filing of the suit and accordingly it was held that the firm had ceased to exist since all the partners had retired before



institution. But in the present case the notices of change of reconstitution of the firm was intimated to the registrar of firms before institution of this as per Section 63(1) of partnership Act by filing Form-V before the registrar of firms on dated 02.05.2025 along with reconstituted deed of partnership. Therefore, the above judgment is not applicable to the facts and circumstances of present case.

23. Further, the learned counsel for the plaintiff argued that as per Order XXX Rule 1, a firm may sue in its own name and plaintiff has correctly instituted the suit in a manner as required under Order XXX Rule 2 and the plaintiff has disclosed the names of all partners by filing memo on dated 16.09.2025 and thereby the plaintiff has Satisfied the procedural compliance. Hence, prays to dismiss the applications filed by the defendant No.1

24. In support of his above lines of arguments, the learned counsel for the plaintiff has relied upon the judgment reported in (1961) SCR 982, in between **Purushottam Umedbhai and Co v. M/s. Manilal and Sons.** Wherein it is held that, “*registered firm can sue through one of its partners and under Order XXX Rule 2 disclosure*”



of partner's names is sufficient when demanded by the defendant”.

25. Herein, in this case the one of the partner has filed this suit and plaintiff by filing memo on dated 16.09.2025 has duly disclosed the names of all partners as required under Order XXX Rule 2 of CPC.

26. Thus, in view of the above judgments and observation made above, as per Order XXX Rule 1, a firm may sue in its own name and plaintiff has rightly instituted the suit in a manner as required under Order XXX Rule 2. The plaintiff has also disclosed the names of all partners by filing memo on dated 16.09.2025 and thereby the plaintiff has Satisfied the procedural compliance. Further, Here the law does not make registration of reconstituted deeds mandatory under Section 17 of the Registration Act, 1908. Wherefore, the applications are without merits and for that reason, this court answers **point No.1 to 3 in the Negative.**

27. **Point No.4:** In view of above findings on point No.1 to 3, this court proceed to pass the following.



O R D E R

The IA No.IV filed by the defendant No.1 under order 7 rule 11 (a) & (d) R/w Sec 151 of CPC, I.A.No.VI filed by the defendant No.1 U/o XXX rule 2(2) R/w Sec 151 of CPC to decide the maintainability of suit and I.A.No.VII filed by the defendant No.1 U/o XXX rule 2(2) R/w Sec 151 of CPC to stay the suit are hereby **dismissed.**

No order as to costs.

(Dictated to the stenographer directly on computer, computerized by her, corrected and then pronounced by me in the open court on this the 18th day of November 2025)

**(Prakash P.M.)
Senior Civil Judge & JMFC,
Mudigere.**