

Spl.C.S. No.20/2020
M/s Jain Lorry Arrangers -Vs.-
M/s National Agriculture Co-op
Marketing Federation of India
CNR No.MHWR120028432020

ORDER BELOW EXH.31
(Date 29-02-2024)

Defendant No. 1 has filed application under Order 7, Rule 11 of CPC.

2] It is the contention of defendant No. 1 that present suit is filed for recovery of amount of Rs.11,76,288/-. It is contention of defendant No. 1 that the present suit is not tenable and maintainable under the provisions of law. The defendant No. 1 is a Multi State co-operative Society registered under Multi State Co-operative Society Act and as per section 115 of Multi State Co-operative Society Act no suit can be filed against the defendant No. 1 unless notice to Central Registrar in terms of Section 115 of the Act. It is a mandatory provision and no proof of service of notice to the Central Registrar has been annexed with the plaint, therefore, present suit to be dismissed Order 7, Rule 11 of CPC.

3] Plaintiff has filed say on the application at Exh. 32 and contended that this is false and bogus application. The plaintiff has denied the defendant No. 1 is Multi State Co-operative Society. Therefore, the provision under Multi State Co-operative Society Act is not attracted to the present case. Hence, plaintiff prayed to reject the application.

4] Perused the application and say. Heard both the sides.

5] In view of contention I framed points on passing order on Exh. 1 and giving reasoning below hereinafter.

Sr No.	Points	Findings
1	Whether the suit is maintainable/tenable against defendant No. 1 ?	No
2	What order ?	As per final order.

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REASONS

AS TO POINT NO. 1 & 2

6] Section 115 of Multi State Co-operative Society Act provide that

“no suit shall be instituted against a multi-state Co-operative Society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of ninety days next after notice in writing has been delivered to the central Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left. ”

7] In the present case defendant No. 1 has filed certificate of its registration showing that defendant No. 1 is register under Multi State Co-operative Society Act. Moreover, the plaintiff has not complied as per section 115 of the Multi State Co-operative Society Act. It is mandatory provision that service of notice to the Central Registrar of Multi State Co-operative Society should have given before filing of the suit. However, the plaintiff has not filed any documents on record to show that the plaintiff had issued notice to the Registrar as per provision.

8] Considering the discussion and with the provision of above said act, the present suit is not tenable and barred by law. Hence, I pass following order.

ORDER

- 1) The present application Exh. 31 is allowed.
- 2) The present suit/plaint is rejected against defendant No. 1.

Place: Hinganghat
Date : 29-02-2024.

(A. I. Shaikh)
Jt. Civil Judge Sr. Dn.
Hinganghat

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Order below Exh. 1

As per application of defendant No. 1 at Exh. 31, issue under Order 7, Rule 11 is hereby framed.

- 1) Whether the suit is maintainable/tenable against defendant No. 1 ?
- 2) What order ?

Place: Hinganghat
Date : 29-02-2024.

(A. I. Shaikh)
Jt. Civil Judge Sr. Dn.
Hinganghat