

Order Passed Below Exh. 31
Mina Bhusnar Vs. M/s. Sairam Stone Crusher.

This is an application filed by defendant No.1 under Order 7 Rule 11 of the Code of Civil Procedure.

2. It is submitted by the defendant No.1 that plaintiff filed the present Suit for declaration and injunction. The M/s Sairam Stone Crusher is partnership firm and notary registered at the office of R.D.Tajane wide registration No.3983/2018 between three partners namely, defendant No. 1 to 3 Pundalik Bandu Mohite, Bhaskar Karbhari Bhusnar and Dattatray Lakshman Sadgir respectively. He further submitted that plaintiff is wife of defendant No.2 and sister of defendant No.3. He submitted that, the said partnership firm has not registered at sub-registrar office at Chandwad. Therefore there is bar under section 69(2) of The Indian Partnership Act,1932 to entertain the suit. More so, he further submitted that, arbitrator has already been appointed to discuss matter between partners under The Arbitration and Conciliation Act,1966. Furthermore, defendants No.1 and 2 has filed a suit for cancellation of partnership firm at Niphad bearing No.84/2019. Therefore, there is also bar to entertain this Suit. Thus, it is prayed that, in view of Provision of Order 7 Rule 11 the Plaint is liable to be rejected.

3. The plaintiff filed her say vide Exh. 36. He denied all contents of the application. It is submitted that, though the firm has not registered at sub-registrar at Chandwad, it is not necessary to register the same at office of sub-registrar only. She further submitted that, she is not partner of firm of defendants. Therefore the provisions under Indian Partnership

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Act as well as The Arbitration and Conciliation Act is not applicable to her. Furthermore she submitted that she has not party to the suit which has been filed by defendant No.1 and 2 at Niphad Court. In such circumstances, the plaintiff prayed for rejection of the application.

4. Heard the Ld. Advocates for both sides. Perused the record, the following Points arise for determination and I have given my findings and the reason thereon as under:

<u>No.</u>	<u>Points</u>	<u>Findings</u>
1.	Whether the suit is barred by the provision of Order 7 Rule 11 ?	In The Negative
2.	What Order	As Per Final Order

As To Points No. 1 & 2 :

5. On perusal of the application, say and record it reveals that, the plaintiff has filed the present Suit for declaration and injunction. Plaintiff has filed suit against partners of partnership Firm. She had let her property to said partnership firm through registered agreement on rent. Partnership firm disobeyed the conditions mentioned in said agreement hence plaintiff filed this suit to seek declaration to be said agreement became cancelled etc. On perusal of record it appears that plaintiff is not partner to said partnership firm, as well as she is not party to suit bearing 84/2019 at Niphad Court. Therefore, the provisions under Indian Partnership Act as well as The Arbitration and Conciliation Act is not

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applicable to her and this suit. Grounds mentioned in instant application are not be proper to reject the plaint straight away.

11. Considering all these facts and circumstances, the present application for rejection of Plaint needs to be rejected. Hence, I pass the following Order:

ORDER

- 1) The application (Exh. 31) is rejected.

Date : 08/06/2023


08/06/2023
(D.S.Nimbalkar)
2nd Jt. Civil Judge Junior Division,
Chandwad.