

**IN THE COURT OF JUDGE, COMMERCIAL COURT (SENIOR CIVIL JUDGE
CADRE), COIMBATORE**

PRESENT: THIRU.C.B.VEDAGIRI, B.PHARM, MS-IT (AUS), L.L.M., Judge
Commercial Court, (Senior Civil Judge Cadre)
Coimbatore

Dated this the 30th Day of April, 2026, Thursday

IA. No. 2 of 2025
in
COS No. 197 of 2025
(CNR.No.TNCB23-000370-2025)

1. Rich Land Builders
Represented by its Partner
Sasithra Dhamodharan
2. Sasithra Dhamodharan

... Petitioners/Defendants

VS

1. Premier Homes
Represented by its Partner Priya
2. Veeramani (a) Priya
3. Vasantha
4. Velmurugan

... Respondents/ Plaintiffs

This Petition coming on this day for final hearing before me in the presence of Thiru P. Sivakumar, Advocate for the Petitioners/Defendants and Thiru. S. Sampath, Advocate for the Respondents/Plaintiffs and upon perusing the records and this court delivered the following:-

ORDER

The Petition has been filed by the Petitioners/Defendants under Order VII Rule 11(d) of CPC to pray that to reject the plaint as barred by law.

1. The gist of the petition is as follows:

The petitioner states that he is the 2nd Petitioner herein and partner of 1st Petitioner firm. The petitioner was aware of the facts of the case and the petitioner was competent to swear by this affidavit. The petitioners respectfully stated that the Respondents have filed this suit seeking recovery of money, recovery of movables and for permanent injunction. The Plaintiffs have filed the suit alleging that 1st Plaintiff is a partnership firm while the Plaintiffs 2 & 3 are its partners. A perusal of the documents filed in support of the plaint would indicate that no partnership deed or firm registration certificate has been produced by the Plaintiffs. The Plaintiffs have not sought for leave contemplated in Order XI Rule 1 (4) and Order XI Rule 1 (5) as applicable to the Commercial Courts. In such circumstances even if the Plaintiffs' firm is registered the non-production of the same is fatal to the case of the Plaintiffs. The petitioners are advised to state that Section 69 of Partnership Act, 1932 prohibits any claim or civil proceedings by an unregistered firm. In the present case the Plaintiffs have neither alleged to be firm registered under the Partnership Act nor produced the firm Registration Certificate. In such circumstances the plaint is clearly barred under Section 69 of the Partnership Act. A combined reading of the plaint, the documents filed in support of the plaint and statement of truth filed by the Plaintiff would indicate that the Plaintiffs' claim is barred under Section 69. The Plaintiffs by clever and astute drafting led the ministerial officers to believe that the plaint is maintainable and valid. A plain and meaningful reading of the plaint would show that the 1st Plaintiff's firm is not registered. Under such circumstances unless the plaint is rejected as barred by law we will be put to irreparable loss and hardship. It is therefore just and necessary that this Hon'ble Court may kindly be pleased to reject this plaint as barred by law and thus render justice.

2. The sum and substance of Counter of Respondents/ Plaintiffs:

The respondents/plaintiffs submit that the petition filed by the petitioner is false, frivolous, and vexatious and not maintainable on both law and facts of the case. The respondents denies the entire allegations made in the affidavit filed by the petitioner, except those that are all specifically admitted by him herein, and the petitioner put to strict proof of the same. The respondents submits that, the averments in para No. 2 of the affidavit filed by the petitioner that, the Respondents have filed this suit seeking recovery of money, recovery of movables and for permanent injunction and the Plaintiffs have filed the suit alleging that 1st Plaintiff is a partnership firm while the Plaintiffs 2 & 3 are its partners and a perusal of the documents filed in support of the plaint would indicate that no partnership deed or firm registration certificate has been produced by the Plaintiffs and the Plaintiffs have not sought for leave contemplated in Order XI Rule 1 (4) and Order XI Rule 1 (5) as applicable to the Commercial Courts and In such circumstances even if the Plaintiffs' firm is registered the non-production of the same is fatal to the case of the Plaintiffs are totally denied as false and incorrect. The respondents submit that, the averments in para No. 3 of the affidavit filed by the petitioner that, the petitioners are advised to state that Section 69 of Partnership Act, 1932 prohibits any claim or civil proceedings by an unregistered firm and in the present case the Plaintiffs have neither alleged to be firm registered under the Partnership Act nor produced the firm Registration Certificate and in such circumstances the plaint is clearly barred under Section 69 of the Partnership Act and a combined reading of the plaint, the documents filed in support of the plaint and statement of truth filed by the Plaintiff would indicate that the Plaintiffs' claim is barred under Section 69 and the Plaintiffs by clever and astute drafting led the ministerial officers to believe that the plaint is maintainable and valid and a plain and meaningful reading of the plaint would show that the 1st Plaintiffs firm is not registered are totally denied as false and incorrect. The respondents submit that, their company is registered under MSME act. As per the MSME act separate
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registration under Partnership Act is not necessary. The respondents enclosed the copy of the registration of their company under MSME Act in the year of 2022 itself that too prior to enter into the construction agreement with the petitioner's company. The petitioner not raised any question or doubt about the registration of partnership or legal entity of the respondent's company at the time of entering into the agreement. In a later stage, that to after registering the criminal case and litigation on both sides now they estopped from raising their fingers about the legal sanctity of the respondent's company. It is mixed with question of law and facts that the status of the company is legally holds good and it can it be sued or the company can sue? Therefore, the relief sought by the petitioner for the reasons stated in the affidavit cannot be decided at this stage. There is no iota of truth in the petition. The respondent reserves his right to file the additional counter statement if and when necessary. Therefore, it prays that this Hon'ble Court may be pleased to dismiss the application and thus render justice.

3. Heard both sides. Perused the record.

4. Point of determination:

The point for consideration is that whether the present petition by the Petitioners/Defendants under Order VII Rule 11(d) of CPC to prayed that to reject the plaint is to be allowed or not?

5. The petitioner counsel contended that the present suit has been filed by the Respondents herein against the petitioners seeking the relief of recovery of money. The above suit has been instituted by the Respondents/Plaintiffs, admittedly a partnership firm.

6. The petitioner counsel urged that the respondents / Plaintiffs have filed the suit in the capacity that the 1st Plaintiff being a partnership firm and that the respondents 2 and 3 / Plaintiffs 2 and 3 are its partners. It is contended that the respondents/plaintiffs has not produced any documentary evidences viz., partnership

deed or firm registration certificate along with the plaint. It is also contended that the respondents have not sought for leave contemplated in Order XI Rule 1 (4) and Order XI Rule 1 (5) as applicable to the Commercial Courts and that the non-production of the registration of Plaintiffs' firm is fatal to the case of the respondents/Plaintiffs.

7. The petitioner counsel argued that a bare perusal of the plaint reveals that there is no pleading whatsoever in the plaint establishing that the Respondents/Plaintiffs firm is a registered partnership firm. It is well established in law that a suit filed by and on behalf of an unregistered partnership firm is expressly barred by law under Section 69(2) of Partnership Act, 1932. The respondents/plaintiffs have not adduced any documentary evidence to show that the Respondents/Plaintiffs are a registered partnership firm on the date of filing of the present suit.

8. The petitioner counsel argued that the bar under Section 69 of Partnership Act, 1932 prohibits any claim or civil proceedings by an unregistered firm. In the present case the respondents / plaintiffs have neither alleged to be firm registered under the Partnership Act nor produced the firm Registration Certificate. In such circumstances the plaint is clearly barred under Section 69 of the Partnership Act. It was also contended that a combined reading of the plaint, the documents filed in support of the plaint and statement of truth filed by the Plaintiff would indicate that the respondents/Plaintiffs' claim is barred under Section 69. Section 69 of Partnership Act, 1932 hits at the very root of institution of the suit and is not a curable defect. The defect strikes at the root of the jurisdiction of this Hon'ble Court to entertain the suit in the first instance. Section 69 of Partnership Act, 1932 assumes a mandatory character and as a consequence the present suit filed by an unregistered partnership firm and all proceedings arising thereunder, which fall within the ambit of Section 69 would be without jurisdiction and a void suit.

9. The petitioner counsel also urged that subsequent registration of the respondents / plaintiffs partnership firm cannot cure the initial lacuna of the suit being filed by an

unregistered firm and hence the present suit is not maintainable.

10. The petitioner counsel finally urged that the institution of the present suit by the Respondents/Plaintiffs, being an unregistered partnership firm at the time of institution of the present suit, is a direct violation of the mandatory statutory provision under Section 69(2) of the Partnership Act, 1932. The absence of registration on the date of institution of the suit renders the present suit defective and not maintainable in law and prayed to reject the present suit as being barred by the law.

11. *Per contra*, the respondents counsel stated that the present petition filed by the petitioner is false, frivolous, and vexatious and not maintainable on both law and facts of the case.

12. The learned counsel for the respondents contended that the present suit has been filed well within the Limitation and the present suit is not barred under law as alleged by the petitioner counsel.

13. The respondents / plaintiff's counsel urged that the present petition was filed only with a *malafide* intention to protract the case proceedings before this court as the respondents has been legitimately pursuing the claim before this court. The respondents counsel argued that the present suit has been filed before this Court on 05.06.2025 and that the case was posted on 23.06.2025 for the first hearing.

14. It is from the records that the petitioners have appeared in the suit and that the petitioners / defendants haven't filed the written statement and the suit was in the stage of filing of written statement.

15. The respondents counsel has contended that their company is registered under MSME act in the year 2022 even prior to the alleged construction agreement amongst the parties to the *lis*. As per the MSME act separate registration under Partnership Act is not necessary.

16. The respondent counsel further contended that the petitioner has not raised any question or doubt about the registration of partnership or legal entity of the respondent's company at the time of entering into the agreement. Thus the petitioner is estopped from agitating regarding the registration and legal sanctity of the respondent's firm at a later stage and that to after registering the criminal case and litigation on both sides.

17. The learned counsel for the respondent finally argued that the question pertaining to the status of the company as to whether it legally holds good, can it be sued or sue are all mixed question of law and facts and that the petition mentioned relief sought cannot be decided at this stage and prayed for dismissal of the petition.

18. The respondents counsel finally argued that the respondent is **bonafide** in making a legitimate claim against the petitioners and urged that though it is a statutory requirement, having applied for registration of partnership firm, the suit should not be rejected on the mere ground of non-registration of respondent firm and prayed for a ordeal of trial and to decide the matter on merits rather than on a narrow scope of mandate of registration of partnership firm as contemplated under Section 69(2) Partnership Act.

19. This court reproduces the provisions of Order 7 Rule 11 of CPC as under:

Rejection of Plaint:- The plaint shall be rejected in the following cases:-

(a) Where it does not disclose a cause of action;

(b) Where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) Where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp- paper within a time to be fixed by the Court, fails to do so;

(d) Where the suit appears from the statement in the plaint to be barred by any law;

(e) Where it is not filed in duplicate;

(f) Where the plaintiff fails to comply with the provisions of Rule 9;

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp- papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp- papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff]

20. This court is aware that Law is well settled that dexterity of the draftsman whereby the material facts are camouflaged in a cleverly drafted plaint and illusionary cause of action is set out, cannot defeat the right of the defendant to get the plaint rejected as adumbrated by the **Hon'ble Supreme Court of India** in ***T.Arivandandam Vs T.V.Satyapal & Anr 1977 4 SCC 467.***

21. This court relies on the decision of the **Hon'ble Supreme Court** in ***P.V.Guru Raj reddy and Anr Vs P.Neeradha Reddy and Ors 2015 2 MLJ 377*** wherein was held that:

"5. Rejection of the plaint under Order VII rule 11 of the CPC is a drastic power conferred in the court to terminate a civil action at the threshold. The conditions precedent to the exercise of power under Order VII rule 11, therefore, are stringent and have been consistently held to be so by the Court. It is the averments in the plaint that has to be read as a whole to find out whether it discloses a cause of action or whether the suit is barred under any law. At the stage of exercise of power under Order VII rule 11, the stand of the defendants in the written statement or in the application for rejection of the plaint is wholly immaterial. It is only if the averments in the plaint ex facie do not disclose a cause of action or on a reading thereof the suit appears to be barred under any law the plaint can be rejected. In all other situations, the claims will have to be adjudicated in the course of the trial.

6. In the present case, reading the plaint as a whole and proceeding on the basis that the averments made therein are correct, which is what the Court is required to do, it cannot be said that the said pleadings ex facie discloses that the suit is barred by limitation or is barred under any other provision of law. The claim of the plaintiffs with regard to the knowledge of the essential facts giving rise to the cause of action as pleaded will have to be accepted as correct. At the stage of consideration of the application under Order VII rule 11 the stand of the defendants in the written statement would be altogether irrelevant."

22. This court is aware that there should be no roving enquiry to be conducted at the stage of deciding the petition for rejection and that truthfulness or falsity of allegations would be a subject matter of trial and the court should nib at the nascent stage. This court refers to the decision of the **Hon'ble High Court of Madras** in *T.Mohanraj Vs Akila Thiruvudancore Siddha Vaidhya Sangam 2011 8 MLJ 671* wherein it was held that:

"59. While deciding the application under Order 7 Rule 11 of Civil Procedure Code for rejection of the plaint, the Court would presume facts mentioned in the plaint as correct. It is to be noted that a Court of Law will not embark upon a roving enquiry into the truthfulness or falsity of allegation. One cannot brush aside an important fact that the power under Order 7 Rule 11 of Civil Procedure Code for rejection of plaint will have to be exercised, by a Court of Law with utmost caution, since the dismissal of an application for petition at the nascent stage leads to very serious consequences. Furthermore, a Plaint under Order 7 Rule 11 of Civil Procedure Code cannot be rejected on the basis that there is every likelihood of relief claimed by the Plaintiff not being granted.

60. As a matter of fact, an embargo as regards the maintainability of the suit as per Order 7 Rule 11 of the Civil Procedure Code must be quite apparent from the material averments made in the plaint. In these circumstances, the ingredients of Order 2

Rule 2 of Civil Procedure Code are based on the Rule of Law that no man shall be vexed twice for one and the same cause of action."

23. This court finds it profitable in placing reliance on the decision of the **Hon'ble Supreme Court** in *Popat and Kotecha Property Vs State Bank of India Staff Association 2005 7 SCC 510*, wherein it was decided that:

"Clause (d) of Order VII Rule 7 speaks of suit, as appears from the statement in the plaint to be barred by any law. Disputed questions cannot be decided at the time of considering an application filed under Order VII Rule 11 CPC. Clause (d) of Rule 11 of Order VII applies in those cases only where the statement made by the plaintiff in the plaint, without any doubt or dispute shows that the suit is barred by any law in force."

24. This court also bank upon the decision rendered by the **Hon'ble High Court of Madras** in *M.Nelson Babu Vs K.Kamalesh Babu and Anr 2010 1 MLJ 1073* where it was decided that:

"11. Order 7 Rule 11(d) has limited application. For its applicability, it must be shown that the present suit is barred under law. Such a conclusion must be drawn from the averments made in the plaint. What would be the relevant for invoking Order 7 Rule 11(d) of CPC are the averments made in the plaint and for that purpose, there cannot be any addition or subtraction. For the purpose of invoking the said provision, no amount of evidence can be looked into. "

25. This court further places reliance on the decision of the **Hon'ble High Court of Madras** in *Loom Tex Exports Vs Thanner Panthal Dharma Chathiram and Ors 2020 1 CTC 275*, wherein it was held that:

"16. The above Judgments make it clear that a cause of action means every fact which, if traversed, would be necessary for the Plaintiff to prove in order to seek a

Decree and relief against the Defendants. There must be some act done by the Defendants which infringes upon a right or violates a right or there is breach of obligation.

17. It will be relevant to rely upon the Judgment of the **Honorable Apex Court** in *Liverpol & London S.P. & I Association Ltd. v. M.V. Sea Success I and another, 2004 (9) SCC 512*. The relevant portion of the Judgment is extracted hereunder:

'20. Rejection of Plaintiff:

139. Whether a Plaintiff discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the Plaintiff itself. For the said purpose the averments made in the Plaintiff in their entirety must be held to be correct. The test is as to whether if the averments made in the Plaintiff are taken to be correct in its entirety, a Decree would be passed.

18. It is clear from the above Judgment that it is enough if the Plaintiff averments and the documents relied upon discloses some cause of action and it is not necessary that such averments and documents are sufficient enough to prove the facts stated therein, for the purpose of obtaining the relief claimed in the Suit. So long as the claim, discloses some cause of action or raise some questions fit to be decided by a Judge, that is enough to proceed further with the Suit and a Plaintiff cannot be rejected on the ground that it does not disclose the cause of action."

26. This court is remindful of the celebrated decision of the **Hon'ble Apex Court** in *T.Arivandandam Vs T.V.Satyapal and Anr 1977 4 SCC 467* wherein it was held that:

"We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentantly resorted to. The learned Munsif must remember that if on a meaningful-not formal-reading of the plaintiff it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Or. VII r. 11 C.P.C. taking care to see that the ground mentioned therein is fulfilled. And, if clever, drafting has created the illusion

of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order X C.P.C."

27. This court also relied on the **Hon'ble Apex Court** decision in ***Bhargavi Construction and Anr Vs Kothakapu Muthyam Reddy and Ors*** wherein it was held that:

"19. One must also not lose sight of the purpose and intention behind Order VII Rule 11(d). The intention appears to be that when the suit appears from the statement in the plaint to be barred by any law, the Courts will not unnecessarily protract the litigation and proceed with the hearing of the suit. The purpose clearly appears to be to ensure that where a Defendant is able to establish that the Plaint ought to be rejected on any of the grounds set out in the said Rule, the Court would be duty bound to do so, so as to save expenses, achieve expedition and avoid the court's resources being used up on cases which will serve no useful purpose. A litigation, which in the opinion of the court, is doomed to fail would not further be allowed to be used as a device to harass a Defendant..."

28. This court relies on the decision of the Hon'ble Supreme Court in ***Sunkari Tirumala Rao vs Penki Aruna Kumari*** decided on 17.01.2025 2025 INSC 92 wherein it was held that:

"8. It is evident from a reading of sub-sections (1) and (2) of Section 69 that it assumes a mandatory character. Section 69(1) prohibits a suit amongst the partners of an unregistered partnership firm, for the enforcement of a right either arising from a contract or conferred by the Act, unless the suit amongst the partners is in the nature of dissolution of the partnership firm and/or rendition of accounts. Section 69(2) prohibits the institution of a suit by an unregistered firm against third persons for the enforcement of a right arising from a contract. As a consequence, a suit filed by an unregistered partnership firm and all proceedings arising thereunder, which fall within the ambit of Section 69 would be without jurisdiction.

9. This Court in **Seth Loonkaran Sethiya and Others v. Mr. Ivan E. John and Others reported in (1977) 1 SCC 379** had categorically held that Section 69 is mandatory in character and a suit instituted by a plaintiff in respect of a right which was vested in him by virtue of a contract and entered into in his capacity as a partner of a partnership firm, would be void, if such a firm was unregistered. The relevant observations are as under:

“21. A bare glance at the section is enough to show that it is mandatory in character and its effect is to render a suit by a plaintiff in respect of a right vested in him or acquired by him under a contract which he entered into as a partner of an unregistered firm, whether existing or dissolved, void. In other words, a partner of an erstwhile unregistered partnership firm cannot bring a suit to enforce a right arising out of a contract falling within the ambit of Section 69 of the Partnership Act. In the instant case, Seth Sujan Chand had to admit in unmistakable terms that the firm “Sethiya & Co.” was not registered under the Indian Partnership Act. It cannot also be denied that the suit out of which the appeals have arisen was for enforcement of the agreement entered into by the plaintiff as partner of Sethiya & Co. which was an unregistered firm. That being so, the suit was undoubtedly a suit for the benefit and in the interest of the firm and consequently a suit on behalf of the firm. It is also to be borne in mind that it was never pleaded by the plaintiff, not even in the replication, that he was suing to recover the outstandings of a dissolved firm. Thus, the suit was clearly hit by Section 69 of the Partnership Act and was not maintainable.”

29. This court also refers to the decision of the **Hon’ble Apex Court in Ashok Group Vs Hariram Buddhraj and Ors** decided on 11.02.2025 wherein it was held that:

“13. The issue is limited. As on date, the said partnership firm is registered. However, at the relevant point of time when the suit was instituted, indisputably it was an unregistered partnership firm.

14. In such circumstances, both the Courts below took the view that the suit is not maintainable.

20. Out attention has been drawn to a decision of this Court in the case of “**Haldiram Bhujawala And Another vs. Anand Kumar Deepak Kumar And Another**” reported in (2000) 3 SCC 250, more particularly Para 26 therein.

Para 26 reads thus:-

“In fact, the Act has not prescribed that the transactions or contracts entered into by a firm with a third party are bad in law if the firm is an unregistered firm. On the other hand, if the firm is not registered on the date of suit and the suit is to enforce a right arising out of a contract with the third-party defendant in the course of its business, then it will be open to the plaintiff to seek withdrawal of the plaint with leave and file a fresh suit after registration of the firm subject of course to the law of limitation and subject to the provisions of the Limitation Act. This is so even if the suit is dismissed for a formal defect. Section 14 of the Limitation Act will be available inasmuch as the suit has failed because the defect of non-registration falls within the words “other cause of like nature” in Section 14 of the Limitation Act, 1963. (See **Surajmal Dagduramji Shop v. Shrikisan Ramkisan [AIR 1973 Bom 313 : 1973 Mah LJ 624]**”.

21. The dictum as laid down by this Court in “**Haldiram Bhujawala**” (*supra*), referred to above, is that if the firm is not registered on the date of suit and the suit is to enforce a right arising out of a contract with the third party defendant in the course of his business, then it will be open for the plaintiff to seek withdrawal of the plaint with leave and file a fresh suit after registration of the firm, subject to the provisions of the Limitation Act. This Court went on further to observe that it would be so even if the suit is dismissed for a formal defect. It proceeded further to observe that Section 14 of the Limitation Act will be available in as much as the suit has failed because the defect of non-registration falls within the words “other acts of like nature” in Section 14 of the Limitation Act, 1963.

22. “**Haldiram Bhujawala**” (*supra*) is based on a decision of the Bombay High Court in the case of “**Surajmal Dagduramji Shop v. Shrikisan Ramkisan**” [AIR 1973 Bom 313].

23. Be that as it may, today we are not getting into any other debate. We permit the plaintiff to withdraw the suit in terms of the dictum as laid down in “**Haldiram Bhujiawala**” (*supra*) with liberty to file a fresh suit in accordance with law, leaving all the questions open for both the sides to be agitated before the Trial Court.”

30. In yet another decision in **Mukund Balkrishna Kulkarni v. Kulkarni Powder Metallurgical Industries and Another** reported in (2004) 13 SCC 750, this Court had the opportunity to consider the applicability of Section 69(1) having regard to the facts of that case. Therein, the appellant had filed a suit for declaration that the respondent no. 1 was a partnership business in which both the appellant and the respondent no. 2 had equal shares along with the prayer for dissolution of the firm and rendition of accounts. It was opined therein that the two embargoes which must co-exist for the plaintiff to be non-suited under Section 69(1) would be that:

- i. The suit should be filed by a person “suing as a partner in a firm” and;
- ii. The suit must be to enforce a right arising from a contract.

11. By applying the two embargoes to the facts of that case, it was held that, first, the suit for declaration as regards the existence of a partnership could neither be said to be made by a person suing as a partner nor could be said to be a suit to enforce a right arising from a contract. It was in fact a prayer to be declared a partner in the firm and was therefore, not falling within Section 69(1). Secondly, as regards the other prayer for dissolution of the firm, the Court held that the appellant was in fact suing “as a partner” and was also enforcing a right under a contract. However, the same was saved due to the operation of the exception under Section 69(3) which permits the filing of a suit for dissolution of the firm and rendition of accounts irrespective of the non-registration of the partnership firm. Therefore, the suit was held to be maintainable. The relevant observations are as under:

“9. The sub-section contains embargos which must coexist before a plaintiff can be non-suited under that sub- section. The two embargos relevant for this case are: (1)

that the suit should be filed by person “suing as a partner in a firm” and (2) that the suit must be to enforce a right arising from a contract. The submission of the respondents which was accepted by the High Court was that the prayer of the appellant, namely, for a declaration of the existence of the partnership and the share between the parties was a suit to enforce a right under a contract against the firm. A prayer for such declaration could not be said to be made by person suing as a partner. It was a prayer to be a partner and is therefore not debarred under the provisions of Section 69(1). Furthermore, what was in fact being prayed for by the appellant was a declaration of the existence of a contract between the parties. That could not be said to be a suit to enforce a right arising from a contract. The second prayer of the appellant was not to continue as a partner of the firm but to dissolve the firm. To that extent the appellant was suing “as a partner”. This he was entitled to do under Section 69(3)(a) which insofar as it is relevant, reads as follows:

“69. (3) The provisions of sub-sections (1) ... shall not affect—

(a) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm;”

10. The right of partner to ask the dissolution of a firm is a right the enforcement of which is otherwise forbidden under Section 69(1). It is because of the exception under sub-section (3) of Section 69 that a person suing as a partner can enforce a right under the contract for dissolution of the firm and accounts. The claim for a half share in the firm's assets would be a necessary corollary to a prayer for dissolution. Without the prayer for specified shares in the firm's assets and business, the relief that may be granted in a suit for dissolution would be ineffective. In the circumstances of the case, we allow the appeal and set aside the decision of the High Court and affirm the decision of the first appellate court.

There will be no order as to costs.”

15. It is a clear as a noon day that the present suit had not been instituted by or on behalf of the firm against any third persons so as to fall under the ambit of Section
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69(2). The petitioners have also not filed the instant suit for enforcing any statutory right conferred under any other law or a common law right so as to exempt the application of Section 69. Hence, the rigours of Section 69(1) would apply on such a suit and the partnership firm being unregistered would prevent the petitioners from filing a bare suit for recovery of money from the respondent.

17. In light of the aforesaid, we are of the view that no error not to speak of any error of law could be said to have been committed by the High Court in passing the impugned order.”

It is the contention of the petitioner counsel that the present respondents/plaintiff's firm is not registered as mandated under Section 69 of the Partnership Act. It is all along the contention of the respondent counsel that they have registered under GST and has adduced GST certificate to that effect.

On perusal of record, it is revealed that the present suit was filed by the Respondent/Plaintiff on 05.06.2025. It is an admitted fact and apparent from the record, that on the date of institution of the present suit the Respondents/Plaintiffs firm is not registered under the provisions of the Partnership Act, 1932 as mandated under section 69(2) of the Partnership Act, 1932. As per the mandatory provision of Section 69(2) of the Partnership Act, 1932 no suit to enforce a right arising from a contract shall be instituted by or on behalf of a partnership firm against any third party unless the firm is registered and the persons suing are shown as partners in the Register of Firms. The relevant statutory provision is clear and unambiguous in this regard. Admittedly the petitioners/respondents firm has not sought for the relief based on any statutory right conferred under any other law or a common law right so as to exempt the application of Section 69. The respondent's claim arises out contractual obligation.

31. *In the light of the narrative, discussion and dispositive reasoning thus far, the inevitable sequitur that follows is that* this court is of the view that as per Section 69

The Indian Partnership Act, 1932, registration of the firm is mandatory in character and its effect is to render a suit by a plaintiffs in respect of a right vested in him or acquired by him under a contract which he entered into as a partner of an unregistered firm, whether existing or dissolved, void.

32. As the scope of this petition is very narrow, any detailed or roving enquiry would be dangerous and this court refrain to make any attempt on that note. The veracity of the claim or the cause of action alleged in this plaint cannot be adjudicated at this stage. Thus the views expressed in this order are only for the limited purpose of testing whether the captioned main suit qua hit under Order 7 Rule 11(d) of CPC.

In the result, the petition is allowed and the present suit is rejected under Order 7 Rule 11(d).

The Order is directly typed in computer by Typist, corrected and pronounced by me in this Open Court on this 30th Day of April, 2026.

Judge
Commercial Court
(Senior Civil Judge Cadre)
Coimbatore

List of Documents:-

List of Documents the side of the Petitioners: Nil

List of Documents the side of the Respondents: Nil

Judge
Commercial Court
(Senior Civil Judge Cadre)
Coimbatore

Fair / Draft Order
I.A. No. 02/2025
COS. No. 197 of 2025
Dt: 30.04.2026
SCJ, CBE.