

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

**Present: Thiru. C.B. Vedagiri, B.Pharm., MS IT (AUS), LL.M., Judge,
Commercial Court, (Senior Civil Judge Cadre)
Coimbatore**

Dated this the 13th Day of March 2026, Friday.

C.O.S. No. 343 of 2024

(Old OS.No.1987/2022 on the file of III Additional Subordinate Court, Coimbatore)

(CNR.No.TNCB23-001018-2024)

M/s. YES R YES AUTOS,
Coimbatore
Rep by its partner
Mr. M. Rangunath

... Plaintiff

//Vs//

M/s. Raj Galaxy,
Sivagangai,
Rep by its Proprietor
Mrs.Thangam Shanthi

... Defendant

This Original Suit came up before me for final hearing in the presence of Thiru. M. Nithyanandan, Advocate for the Plaintiff and the Defendant having remained *exparte* on **05.01.2024** and upon hearing the Counsel for the Plaintiff and perusing the materials available in the case records and having stood over this case for consideration till this date this court delivered the following...

JUDGMENT

The Suit has been filed by the Plaintiff against the defendant to pay the Sum of Rs.5,82,126/- with subsequent interest at the rate of 24% per annum for the principal amount from the date of suit till the date of realization with cost from the defendant.

1. The Plaintiff Averments which are found essential for the Disposal of the Suit is that:

The Plaintiff is dealing with trading Two Wheeler Extra Fittings Accessories and its oriented items etc., in the name and style of “YES R YES AUTOS” and the defendant is having business contact with the plaintiff for the past 3 years and due to regular business with the plaintiff the defendant have given an order and the price agreed as per the Sales Invoices from 28.03.2019 to 10.03.2020 for the sum of Rs.17,12,126/- (including CGST 14% & SGST 14% and Net 28%) and the period of credit limit to settle the invoices amount is 30 days from the date of transaction. After deducting the payment of Rs.11,30,000/- made by the defendant and it is the case of the plaintiff that the defendant liable to pay the remaining balance of Rs.5,82,126/- with interest at the rate of 24% per annum as on 07.10.2020 as per the ledger account maintained by the plaintiff. The defendant has not paid any sum till date inspite of the repeated plaintiff’s regular call through phone and the plaintiff’s representatives personally visited to the defendant’s place to collect the amount. Hence the plaintiff issued a lawyer’s notice to the defendant on 10.10.2022, demanding the defendant to pay the amount due and the defendant has not received notice and the same has been returned as “Unclaimed” on 17.10.2022, it is the contention of the plaintiff that the defendant has not chosen either to send a reply notice or to comply with the demands of the said legal notice. Hence this suit is filed for aforementioned relief.

2. Notice to the defendant was issued through Court and post. The court summons to the defendant was returned as “No Residence” and the postal summons was returned as “No such addressee”. Further private notice to the defendant was returned as “No such company in this Address”. Hence substituted service by paper publication for the defendant was effected on 05.12.2023. Since the defendant has not turned up on **05.01.2024**, the defendant was set *exparte* on **05.01.2024** in the earlier proceedings in OS No. 1987 of 2022 before the III Additional Subordinate Judge, Coimbatore. Subsequently the present suit was transferred to this court on 20.02.2024 as per proceedings of the Hon’ble Principal District Judge, Coimbatore. In this court the plaintiff counsel has filed a petition in IA NO. 2/2025 under Order XI Rule 1(5) for adducing the additional two ledger statement in the list of documents which was permitted by the court on 08.07.2025.

3. Point for Determination:

Whether the Plaintiff is entitled for recovery of Suit amount as Prayed for?

4. On the side of the plaintiff, the plaintiff was examined as PW1 and the documents from Ex.A1 to Ex.A57 were marked through PW1. Subsequently statement of truth was filed by the plaintiff. Further this court has clarified regarding non registration of plaintiff firm and thus the suit is taken for further proceedings.

5. Point:

It is from the case record that this court has raised a clarification regarding registration of the partnership firm of the plaintiff on 18.07.2025 and that the plaintiff counsel has requested time to clarify as to the applicability of Section 69(2) of the Partnership Act. This court was confronted with the issue pertaining to the maintainability of the very suit by the plaintiff firm, having sued in the name of the firm, without registration of firm as mandated under **Section 69 Indian Partnership Act, 1932.**

6. This court has also recorded in notes paper dated 18.07.2025 that:

“For appearance of plaintiff counsel. To clarify regarding on registration of firm. Call on 30.07.2025.”

7. Subsequently this court has also recorded on 30-07-2025 to 23-02-2026 that:

23.02.2026:

“Plaintiff to clarify the firm registration and for further proceedings. Call on 07.03.2026.”

07.03.2026:

“Plaintiff counsel present. Plaintiff already clarified regarding the firm registration. For further proceedings. Call on 09.03.2026.”

8. This court under **Order 14 Rule 5 CPC** thought it fit to address the issue pertaining to registration of plaintiff's partnership firm as a preliminary issue for determining the matters in controversy between the parties.

9. The plaintiff counsel fairly admitted that the plaintiff firm is not registered. Without going in to the merits of the case, this court having considered the materials placed and hearing the learned counsel for the plaintiff, has taken the **issue of requirement of registration of plaintiff firm** as the preliminary issue of maintainability of the *lis* to initiate a suit for recovery of money against the defendant.

10. This court refers to the provision under Sec.2(c) (i) of the Commercial Courts Act, 2015 hereunder:

(c) "commercial dispute" means a dispute arising out of-

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

and that the first category referred, includes disputes of ordinary transactions of **merchants, bankers, financiers and traders** such as those relating to **mercantile documents** including enforcement and interpretation of such documents. The definition naturally will cover the dispute of all kinds of ordinary transactions of merchants, bankers, financiers and traders. The banks are established under **Banking Regulation Act for the purpose of business and commerce**, naturally all transaction of bank about giving of loans, recovery thereof, deposits in banks etc., should fall within the category of commercial dispute. If the specified value thereof is more than Rs.3,00,000/-. So the facts pleaded before this court in the present plaint comes under the **commercial dispute**.

11. The next question which this court would like to answer is whether the dispute which is stated *supra* comes under the jurisdiction of commercial court. Thus, this court refers to **Sec.6 of Commercial Courts Act, 2015** which reads like this:

Jurisdiction of Commercial Court.

6. The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

Explanation.-For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908).

12. From the above provision it is very much clear that the commercial court shall have the jurisdiction to try all suits and applications relating to **commercial dispute**. Now, the question is whether this court having the pecuniary jurisdiction to adjudicate the matter which is in dispute. Thus, this court drawn its attention on Sec.3 of Commercial Courts Act, 2015 which reads like this:

Section 3: Constitution of Commercial Courts.

3. (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

2[Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.]

3[(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.]

13. The above provision is very much clear that by virtue of the notification specified the pecuniary value of this court which shall not be less than Rs.3,00,000/-. Admittedly, the plaintiff bank in the plaint itself has stated that the defendant has to pay a due sum of **Rs.5,82,126/-** with interest and the plaintiff has filed the instant suit

against the defendant on **07.11.2022**. i.e., after the amendment of Commercial Courts Act, 2018.

14. Prior to the amendment, the pecuniary jurisdiction of the commercial court is of Rs.1 Crore and above, but by virtue of the amendment of Commercial Courts Act, the pecuniary jurisdiction of the commercial court shall not be less than Rs.3,00,000/-. So this court is having the pecuniary jurisdiction to adjudicate the matter which is in dispute by virtue of the provisions which are stated *supra*.

15. There is no denying of the fact that the present suit involves commercial transaction and could be tried by this court as per the provisions stated above. But this court finds it pertinent to decide the issue of maintainability of the suit by the plaintiff partnership firm dehors of registration as mandated by Section 69 of the Indian Partnership Act, 1932.

16. It is the case of the Plaintiff that he is trading Two Wheeler Extra Fittings Accessories and the above said trading company was registered vide Ex.A2, Registration Certificate dated 21.03.2018 and the deed of partnership executed on 20.02.2015 vide Ex.A3 and the defendant is a Proprietorship concern, doing his business under the name and style of “M/s. Raj Galaxy” which was registered vide Ex.A4, Goods and Services Tax.

17. It is from the records that the defendant has given an order to the plaintiff and the price was agreed as per the Sales Invoices vide Ex.A5 to Ex.A54 amounting to Rs.17,12,126/-.

18. It is urged that, from the above said invoices the total value of the order is of Rs.17,12,126/- out of which the defendant paid the sum of Rs.11,30,000/- to the plaintiff, therefore the remaining balance of Rs.5,82,126/- is payable by the

defendant. It is the case of the plaintiff that the defendant is liable to pay the remaining outstanding amount of Rs.5,82,126/- with interest at the rate of 24% per annum as per trader trade, usage and custom vide Ledger Statement in Ex.A57.

19. The plaintiff counsel urged that the defendant has failed to pay the said amount for the past 2 years, therefore the plaintiff has issued a legal notice to the defendant vide Ex.A55 dated 10.10.2022, demanding the defendant to pay the amount due and the said notice has been returned as “Unclaimed” vide Return Postal Cover in Ex.A56 dated 17.10.2022. Thereafter defendant has neither reply to the notice nor repays the outstanding dues to the plaintiff.

20. It is also urged that the defendant has made last transactions on 07.10.2020 (Rs.2,00,000/- paid out of Rs.7,82,126/- therefore remaining as on 07.10.2020 is of Rs.5,82,126/-) and it is from the records that the defendant had purchased through invoices from the plaintiff for the periods from 28.03.2019 to 10.03.2020 and thus the present suit is instituted on 07.11.2022. Hence the court is of considered view stand that the present suit is filed well within the period of limitation.

21. The issue pertaining to requirement of registration of partnership firm and the effect of non-registration of the firm is no more *res integra*. It has been time and again insisted by the Hon'ble Supreme Court and Hon'ble High Court through various judicial pronouncements emphasizing the mandate of registration to maintain a *lis*.

22. The language of Section 69(2) of Indian Partnership Act emphasize that the registration is required to give the firm the right to file a suit, making registration a pre-requisite for initiating law suits on behalf of the firm or against the third party. If the names of the partners are not recorded in the Registrar of Firms, lawsuits cannot

be initiated. This is because such law suits are directly related to the contracts that were made by the unregistered partnership firm during its normal course of business.

23. For a proper determination of this question, this court feels it pertinent to refer to **section 69 of the Partnership Act, 1932**, the relevant portion whereof is reproduced below for ready reference :--

"69.(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 of Firms as partners in the firm.

(3) The provisions of sub-sections (1) and (2) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not effect--

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

24. This court placed reliance on the decision of the **Hon'ble Supreme Court** in **Delhi Development Authority s Kochhar Construction Work and Anr 1998 8 SCC 559** wherein it was held that:

“3. Section 69(1) provides that no suit to enforce a right arising from a contract 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. This sub-section begins with the words: "No suit... shall be instituted in any court ... ", which prima facie bar the institution of the suit by a firm which is unregistered. Sub-section (2) next provides that 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. This sub-section also begins with the words: "No suit ... shall be instituted in any court...", which clearly bar the institution of a suit by a firm which is not registered. The provisions of Sub-sections (1) and (2) have been made applicable to other proceedings to enforce a right arising from a contract by virtue of Sub-section (3) of Section 69. It would thus seem on a plain reading of Section 69(2) that a suit instituted in any court by or on behalf of a firm against any third party shall not be valid unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners of the firm. Plainly, the institution of the suit itself is barred both by Sub-section (1) and Sub-section (2) of Section 69 of the Partnership Act.

4....We have considered these decisions, but in the light of the plain language of Section 69 of the Partnership Act read with Section 20 of the Arbitration Act and in view of the decision of this Court reported in **Shreeram Finance Corporation**, we are clearly of the opinion that proceedings under Section 20 of the Arbitration Act were ab initio defective since the firm was not registered and the subsequent registration of the firm cannot cure that defect.”

25. This court also placed reliance on the decision of the **Hon’ble Gujarat High Court in Hetal Steel Corporation Vs R.R.Trading Co and Anr AIR 2024 Gujarat 205** wherein it was held that:

“5.2 The Apex Court while dealing with the arguments and question of law with regard to Section 69(2) of the Act referred to a decision in the case of **Raptakos**

Brett & Co. Ltd. vs Ganesh Property [(1998) 7 SCC 184]. Para 22 of the decision in the case of **Purushottam (supra)** indicates thus:

"22. In **Raptakos Brett & Co. Ltd. (supra)** this court after noticing Sec. 69 of the Act observed :

"A mere look at the aforesaid provision shows that the suit filed by an unregistered firm against a third party for enforcement of any right arising from a contract with such a third party would be barred at its very inception. To attract the aforesaid bar to the suit, the following conditions must be satisfied:

(i) That the plaintiff-partnership firm on the date of the suit must not be registered under the provisions of the Partnership Act and consequently or even otherwise, the persons suing are not shown in the Register of Firms as partners of the firm, on the date of the suit.

(ii) Such unregistered firm or the partners mentioned in the sub-sec. must be suing the defendant-third party.

(iii) Such a suit must be for enforcement of a right arising from a contract of the firm with such a third party".

6. Perusal of the plaint in the facts of the case would indicate that admittedly the suit was by a plaintiff which was a partnership firm which was unregistered. The transactions that were alleged to have occurred between the parties nowhere suggest from the plain averments of the plaint as it is read to indicate that the contract was arising out of a business transaction between the erstwhile proprietor Hetal Corporation. The plaint therefore plain and simple would indicate that the contract that was the matter of dispute for which the cause of action had occurred was a contract for enforcement of a right arising from a contract of the firm with such a third party.

8. The question as to whether the subsequent registration of the firm would cure the initial defect in the filing of the suit arose for consideration in **D.D.A. V/s. Kochhar Construction Work and Anr. (1998) 8 SCC 559**. This Court held that in view of the

clear provision of the Act it was not possible to subscribe to the view that subsequent registration of the firm may cure the initial defect, because the proceedings were ab initio defective as they could not have been instituted since the firm in whose name the proceedings were instituted was not a registered firm on the date of the institution of the proceedings.”

26. It is pertinent to refer to the recent decision of the **Hon’ble High Court of Madras in The Chennai Law Firm vs Reyvish Associates (P) Ltd 2024 5 CTC 185** wherein it was held that:

“7. Mr.L.Sriram, learned counsel appearing on behalf of the appellant, would submit that the bar under Section 69(2) of the Partnership Act would not apply to a common law claim or the statutory claim. He would submit that the bar under Section 69(2) of the Partnership Act is not attached to every contract. He would further submit that the fee due to the plaintiff which is a partnership firm of lawyers is not a business venture and therefore, it comes within the category of “arising from a contract” under Section 69(2) of Partnership Act, as it is the remuneration for the services that has been rendered. In support of this contention, he relied upon the judgments of the Hon'ble Supreme Court in the following cases.

(i) The Tamil Nadu Retrenched Census Employees' Association vs. K.Thennan reported in 2006(1) MWN (Cr.)(DCC) 70 ;

(ii) Raptakos Brett and Co.Lts vs. Ganesh Property reported in (1998) 7 SCC 184 and

(iii) Haldiram Bhujia Wala and another vs. Anand Kumar Deepak Kumar and another reported in (2000) 3 SCC 250.

8. Heard the learned counsel for the appellant and perused the materials available on record.

9. **Section 69(2) of the Partnership Act** talks about the registration of the firms and the effect of the non-registration of a firm that seeks to enforce the right arising from a contract. Section 69(2) of the Partnership Act would read as follows;

“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”

A reading of the above Section would clearly show that no suit can be instituted by or on behalf of an unregistered firm to enforce any right arising from a contract against the 3rd party unless a firm is registered and the persons suing are shown as partners.

10. In the instant case, the plaintiff has clearly described themselves as a partnership firm. Thereafter, he has clearly stated that there was an agreement between themselves and the defendant, in and by which, they were assigned to file a petition under Section 14 of the SARFAESI Act on behalf of the defendant and as per the terms of the agreement, 50% of the fees was payable at the time of filing of the petition and the balance on the completion of the assignment. Therefore, the parties had entered into a contract of service. The right to claim remuneration from the defendant only emanates from this agreement/contract.

11. Therefore, the judgments relied upon on the part of the appellant viz., **Raptakos Brett and Co.Lts vs. Ganesh Property** reported in (1998) 7 SCC 184 and **Haldiram Bhujia Wala and another vs. Anand Kumar Deepak Kumar** and another reported in (2000) 3 SCC 250 cannot be pressed into service. In the judgment in the case of **The Tamil Nadu Retrenched Census Employees' Association vs. K.Thennan** reported in 2006(1) MWN (Cr.)(DCC) 70, the learned Single Judge of this Court had clearly held that the amount due towards an Advocate towards his professional service was an enforceable debt. Therefore, the plaintiff is seeking to recover this enforceable debt from the defendant which is evident from Exs.A1 to A4. Therefore, the Lower Appellate Court has rightly allowed the appeal and I see no reason to interfere with the same.”

27. This court finds it profitable to refer to another decision of the Hon'ble High Court of Madras in **M/S.Sakthi Durga Engineering vs P.S.Raman** decided on 25.02.2021 wherein it was held thus:

“19.Considering the position of law outlined in the abovesaid decision, it is evident that the illegality in the institution of the suit goes to the root of the very institution of the suit and the plaint itself is found to be non est in law. The subsequent registration, after the institution of the suit, will not cure the defect of non registration before the date of presentation of the suit. It is further noted that the very plaint of the unregistered firm having been taken on file, being non est in law, it follows that the Court has no jurisdiction to proceed with the trial of such a suit as the primordial condition precedent to the very institution of the suit has not been complied with or fulfilled by the plaintiff.

20.The abovesaid position of law has also been followed by our High Court in the decision reported in **1999 (II) CTC 540 (M/s.K.R.M.Money Lenders rep.by its Power Agent Karuppiah Vs. Mr.A.Manoharan @ Doss)**, where in, the position of law has been explained as follows:

" **Partnership Act, 1932, Section 69(2)** - Suit instituted by partnership firm which was unregistered on date of institution of suit - Firm subsequently registered - Subsequent registration of firm does not cure defect of non-registration before presentation of suit - Non-registration of firm is illegality going to root of suit and plaint is itself non-est in law - Firm instituting suit should establish that firm is registered and disclose particulars of partners who constitute firm on date of institution of suit. -

Code of Civil Procedure, 1908, Order 7, Rule 1 - Plaint and pleadings - Defect in filing suit by unregistered firm goes to root of suit and Court is bound to consider same even if defendants had failed to raise such objection - Court has to reject plaint if barred by law - Suit by unregistered firm barred under Section 69(2) of Partnership

Act - Suit to be rejected and plea of waiver of such objection by defendants is of no avail.

Practice and procedure - Suit by unregistered Firm decreed - One defendant alone filing appeal and raising objection regarding maintainability of suit by unregistered Firm - Plea to be rejected and decree to be set aside - Plea that decree would be valid against other defendants who did not file appeal would be mockery of system as there would be two different decrees on same point or cause of actions."

21. In the light of the abovesaid factors, it is found that the plaintiff's suit is hit by **Section 69(2) of the Indian Partnership Act, 1932**. The subsequent registration of the plaintiff's firm would not cure the defect of non registration before the presentation of the suit. In view of the fact that the non registration of the firm is an illegality going to the root of the suit and thereby, the plaint itself is non est in law, the position of law being above, in such view of the matter, the contention of the plaintiff's counsel that the plaintiff's firm having been subsequently registered with the appropriate authority, the same would cure the defect of non registration on the date of the filing of the suit has to be discountenanced and with reference to the abovesaid position of law, as no conclusive opinion has been formulated or outlined by the apex Court in the decision reported in **(1998) 7 Supreme Court Cases 184 (Raptakos Brett & Co.Ltd., Vs. Ganesh Property)** relied upon by the plaintiff's counsel and resultantly the law enunciated by the apex Court in the decision reported in **(1989) 3 Supreme Court Cases 476 (M/s.Shreeram Finance Corporation Vs.Yasin Khan and others)** is holding the field as held by our High Court in the various decisions referred to supra.

24. In the light of the abovesaid discussions, I hold that the lending of money by the plaintiff to the defendant (assuming the plaintiff's case is true and averred in the plaint) is only done in the normal course of its business and therefore, the plaintiff's suits are hit by Section 69(2) of the Indian Partnership Act, 1932 and the subsequent

registration of the plaintiff's firm would not cure the defect of non registration at the time of the presentation of the suit...”

28. Reliance is also placed on the decision of **Hon’ble Supreme Court** in **Haldiram Bhujiawala And Anr vs Anand Kumar Deepak Kumar And Anr AIR 2000 SC 1287** wherein it the Hon’ble Supreme Court has referred to **Raptokas Brett Co. Ltd. v. Ganesh Property** and it was held that:

“The points that arise for consideration are:

(i) whether Section 69(2) bars a suit by a firm not registered on the date of suit where permanent injunction and damages are claimed in respect of a trade marks as a statutory right or by invoking Common Law principles applicable to a passing-off action?

(ii) whether the words 'arising from a contract' in Section 69(2) refer only to a situation where an unregistered firm is enforcing a right arising from a contract entered into by the firm with the defendant during the course of its business or whether the bar under Section 69(2) can be extended to any contract referred to in the plaint unconnected with the defendant, as the source of title to the suit property?

Point 1:

The question whether Section 69(2) is a bar to a suit filed by an unregistered firm even if a statutory right is being enforced or even if only a Common Law right is being enforce came up directly for consideration in this Court in **M/s. Raptokas Brett Co. Ltd. v. Ganesh Property, [1998] 7 SCC 184**. In that case, Majmudar, J. speaking for the Bench clearly expressed the view that Section 69(2) cannot bar the enforcement by way of suit by an unregistered firm in respect of a statutory right or a common law right. On the facts of that case, it was held that the right to evict a tenant upon expiry of the lease was not a right 'arising from a contract' but was a common law right or a statutory right under the Transfer of Property Act. The fact that the plaint in that case referred to a lease and to its expiry, made no difference. Hence, the

said suit was held not barred. It appears to us that in that case the reference to the lease in the plaint was obviously treated as a historical fact. That case is therefore directly in point. Following the said judgment, it must be held in the present case too that a suit is not barred by Section 69(2) if a statutory right or a common law right is being enforced.

Likewise, if the reliefs of permanent injunction or damages are being claimed on the basis of a registered trade mark and its infringement, the suit is to be treated as one based on a statutory right under the Trade Marks Act and is, in our view, not barred by Section 69(2).

For the aforesaid reasons. In both these situations, the unregistered partnership in the case before us cannot be said to be enforcing any right "arising from a contract". Point 1 is therefore decided in favour of the plaintiffs-respondents.

Point 2:

Question however arises as to what is the scope of the words 'enforcing a right arising under the contract' used in Section 69(2)?

Learned senior counsel for the appellants repeatedly drew our attention to the allegation in the plaint at various places that it was only under the deed of dissolution dated 16.11.1974 that Moolchand, - the father of the partners of the 1st plaintiff firm and the 2nd plaintiff - became proprietor of the trade mark for the whole of India (except West Bengal). That right developed on the plaintiffs on the death of Moolchand. Therefore, it was contended that the 1st plaintiff firm was definitely seeking to enforce a right "arising from a contract", namely, the contract of dissolution dated 16.11.74. It was argued that the 1st plaintiff could not claim any injunction or damages unless reliance was placed on the said contract and hence the suit was barred by Section 69(2).

For the purpose of deciding this point, it is necessary to go into the question as to what the legislature meant when it used the words 'arising from a contract' in Section 69(2).

In **Raptokas Brett and Co., [1998] 7 SCC 184** it was clarified that the contractual rights which are sought to be enforced by plaintiff firm and which are barred under section 69(2) are "rights arising out of the contract" and that it must be a contract entered into by the firm with the third party defendants. **Majmudar, J.** stated (at p.191) as follows:

"A mere look at the aforesaid provision shows that the suit filed by an unregistered firm against a third party for enforcement of any right arising from a contract with such a third party would be barred....."

From the above passage it is firstly clear that contract must be a contract by the plaintiff firm not with anybody else but with the third party defendant.

The further and additional but equally important aspect which has to be made clear is that - the contract by the unregistered firm referred to in section 69(2) must not only be one entered into by the firm with the third party - defendant but must also be one entered into by the plaintiff firm in the course of the business dealing of the plaintiffs firm with such third party - defendant.

The real crux of the question is that the legislature when it used the word "arising out of a contract" in Section 69(2), it is referring to a contract entered into in course of business transaction by the unregistered plaintiff firm with its customers - defendants and the idea is to protect those in commerce who deal with such a partnership firm in business. Such third parties who deal with the partners ought to be enabled to know what the names of the firm are before they deal with them in business.

Further Section 69(2) is not attracted to any and every contract referred to in the plaint as the source of title to an asset owned by the firm. If the plaint referred to such a contract it could only be as a historical fact. For example, if the plaint filed by the unregistered firm refers to the source of the firm's title to a motor car and states that the plaintiff has purchased and received a Motor Car from a foreign buyer under a contract and that the defendant has unauthorisedly removed it from the plaintiff firm's possession, it is clear that the relief for possession against defendant in the suit does

not arise from any contract with defendant entered into in the course of plaintiff firm's business with defendants but is based on the alleged unauthorised removal of the vehicle from the plaintiff firm's custody by the defendant. In such a situation, the fact that the unregistered firm has purchased the vehicle from somebody else under a contract has absolutely no bearing on the right of the firm to sue the defendant for possession of the vehicle. Such a suit would be maintainable and Section 69(2) would not be a bar, even if the firm is unregistered on the date of suit. The position in the present case is not different.

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 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. M/s. Srikishan Ram Kishan, AIR (1973) Bom. 313.**

For all the reasons given above, it is clear that the suit is based on infringement of statutory rights under the Trade Marks Act. It is also based upon the common law principle of tort applicable to passing-off actions. The suit is not for enforcement of any right arising out of a contract entered into by or on behalf of the unregistered firm with third parties in the course of the firm's business transactions. The suit is therefore not barred by section 69(2).

For the aforesaid reasons, the appeal fails and is dismissed without costs. We should not be understood as having said anything on the merits of the case for we have

confined ourselves to the allegations in the plaint as we are here only dealing with an application filed by the appellants under Order 7 Rule 11 CPC.”

29. It could be seen from the decision of the **Hon’ble Supreme Court** in **M/s. Raptokas Brett Co. Ltd. v. Ganesh Property, [1998] 7 SCC 184**, and it was held thus:

On the facts of the present case it has to be held that there is no further locus poenentiae given to the tenant to continue to remain in possession after the determination of lease by efflux of time on the basis of any such contrary express term in the lease. Consequently, it is legal obligation flowing from Section 108(q) of the Act which would get squarely attracted on the facts of the present case and once the suit is also for enforcement of such a legal right under the law of the land available to the landlord it cannot be said that enforcement of such right arises out of any of the express terms of the contract which would in turn get visited by the bar of Section 69 sub- section (2) of the Partnership Act, Consequently it has to be held that when paragraph 2 of the plaint in addition made a reference to right of the plaintiff to get :possession under the law of the land, the plaintiff was seeking enforcement of its legal right to possession against the erstwhile lessee following from the provisions of **Section 108(q) read with Section 111 (a) of the Property Act** which in turn also sought to enforce the corresponding statutory Obligation of the defendant under the very same statutory provisions. So far as this part of the cause of Action is concerned it stands completely outside the sweep of **Section 69(2) of the Partnership Act**. The net result to this discussion is that the present suit Can be said to be partly barred by **Section 69(2)** so far as it sought to enforce the obligation of the defendant under Clauses 14 and 17 of the contract of lease read with the relevant recitals in this connection as found in paragraph 2 of the plaint. But it was partly not barred by **Section 69(2)** in so far as the plaintiff based a part of its cause of Action also on the law of the land, namely, Transfer of Property Act where under the plaintiff had sought

to enforce its statutory right under **Section 108(q) read with Section 111 (a) of the Property Act**. Enforcement of the right had nothing to do with the earlier contract which had stood determined by efflux of time. The first point for determination therefore, has accordingly, to be held partly in favour of the plaintiff and partly in favour of the defendant. As the decree for possession is passed on the basis of both parts of causes of Action, even if it is not supportable on the first part, it will remain well sustained on the second part of the very same cause of Action;”

30. In this regard, this court refers to the decision of the **Hon’ble Delhi High Court in M/s.Bestochem Formulation Vs Dinesh Ayurvedic Agencies 76 (1998) DLT 972** and emphasized that **Section 69(2)** will not apply to passing-of action as the suit is based on tort and not on contract. It was held thus:

“10. Applicability of Section 69 of the Partnership Act could be looked into at the very threshold. If the suit is based on a Contract for enforcement of which the suit is instituted by an unregistered firm, the same is not maintainable in law. The relevant date for examination of the same is the date of filing of the suit. If on the date of filing of the suit, the suit was not maintainable, it was void ab initio. Subsequent obtaining of registration and/or averments made in the written statement and counter claim and/or subsequent deletion of one of the parties would not make the suit valid. In this connection, reference may be made to a decision of the Supreme Court in **M/s. Siri Ram Finance Corporation and others Vs. Yasin Khan and another**; . In the said decision the Supreme Court held that if a suit is hit by the provisions of Section 69 of the Partnership Act on the date of filing of the suit would not be saved by subsequent amendment in the plaint.

11.....The provisions of Section 69(3)(a) would not also save the present suit from the bar of Section 69 of the Indian Partnership Act as because the suit is neither for enforcement of any right or power to realise the property of the dissolved firm, nor the same is for rendition of any accounts of the dissolved firm. In this connection,

reference may be made to a decision of the Supreme Court in **Loonkaran Sethia etc., Vs. Mr. Ivan E. John and others;** . In paragraph 21 of the said judgment, it was held by the Supreme Court that a bare glance at Section 69 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. The Supreme Court further clarified the position by stating that 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. The Supreme Court found that on the facts of the said case the firm in question was not a registered firm under the Indian Partnership Act and it also could not be denied that the suit was also for enforcement of the agreement entered into by the plaintiff as a partner which was an unregistered firm and that being so, the suit was undoubtedly found to be a suit for the benefit and in the interest of the firm and consequently a suit on behalf of the firm. It was thus held that the suit was clearly hit by Section 69 of the Partnership Act and was not maintainable. In my considered opinion, the ratio of the aforesaid decision is fully applicable to the facts and circumstances of the present case also.”

31. This court refers lend strength from the decision of the **Hon’ble Apex Court** in **Loonkaran Sethia etc., Vs. Mr. Ivan E. John and others 1977 AIR 336** wherein it was held that:

A bare glance at the section is enough to show that it 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 a erstwhile unregistered part- nership 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 Suganchand 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 is undoubtedly a suit for the benefit and 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 outstanding's of a dissolved firm. Thus the suit was clearly hit by section 69 of the Partnership Act and was not maintainable.

32. This court finds it profitable and relevant in referring to the decision of the **Hon'ble Supreme Court in Shiv Developers Through its partner Sunilbhai Somabhai Ajmeri Vs Aksharay Developers and Ors 2022 SCC Online SC 114** on which the respondent counsel placed reliance "This Court found that the suit was only to enforce a right arising from the terms of said partnership deed and hence, it attracted the bar of **Section 69(2) of the Act of 1932**. The said decision, for an entirely different fact situation and different claim, has no application to the facts of the present case.

Application of the relevant principles to the subject suit

19. Taking up the facts of the present case, one of the significant features herein is that the transaction in question, i.e., sale of its share by the plaintiff firm to the contesting defendants has not been the one arising out of the business of the plaintiff firm. This factual aspect is apparent from the basic plaint averments and is fortified by the concurrent findings of the Trial Court as also of the High Court. Though the High Court endorsed the finding that the transaction in question was not arising out of the business of the plaintiff firm but, it appears that the implication of this crucial finding has not acquired the requisite attention of the High Court. The decision of this Court in the case of **Purushottam (supra)** was cited before the High Court but, while referring to the same in paragraph 33 of the impugned judgment, the High Court

probably looked only at the editor's headnote and in any case, missed out the ratio and principles therein, as reiterated with reference to the previous decisions. The decision in **Haldiram Bhujiawala (supra)** seems to have not gone into consideration of the High Court although this decision formed the sheet anchor of the order of the Trial Court.

19.1. As noticed, the crucial and key factor in the present case remains that the sale transaction in question is not arising out of the business of the appellant firm. Equally significant fact is that the subject suit is for enforcing a right of avoidance of a document on the ground of fraud and misrepresentation as also the statutory rights of seeking declaration and injunction. Significantly, the composition of defendant firm "Aksharay Developers" (defendant No. 1) has itself been questioned by the plaintiff-appellant while alleging that on 22.04.2014, this firm was constituted with four partners but later on, the defendant Nos. 2 and 3 (respondent Nos. 2 and 3 herein), constituted another firm in the same name with themselves as partners while leaving aside the other two.

19.2. We are not commenting on the merits of the case of either of the parties but this much is apparent from a look at the frame and contents of the plaint as also the prayers therein that the present one cannot be said to be such a suit by the unregistered firm which would attract the bar of Section 69(2) of the Act of 1932.

20. To put it differently, the relevant principles, when applied to the facts of the present case, leave nothing to doubt that the transaction in question was not the one entered into by the plaintiff firm during the course of its business (i.e., of building construction); and it had been an independent transaction of sale, of the firm's share in the suit property, to the contesting defendants. The bar of Section 69(2) is not attracted in relation to the said sale transaction. Moreover, the subject suit cannot be said to be the one for enforcement of right arising from a contract; rather the subject suit is clearly the one where the plaintiff seeks common law remedies with the allegations of fraud and misrepresentation as also of the statutory rights of injunction

and declaration in terms of the provisions of the Specific Relief Act, 1963 as also the Transfer of Property Act, 1882 (while alleging want of the sale consideration). Therefore, the bar of Section 69(2) of the Act of 1932 does not apply to the present case.

Conclusion

21. The upshot of the foregoing discussion is that, for the purpose of Section 69 of the Act of 1932, the present case is governed by the principles laid down in **Raptakos Brett & Co. Ltd. (supra)**, as further expounded in **Haldiram Bhujawala (supra)**. Hence, the bar of Section 69(2) is not attracted to the suit filed by the appellant. The Trial Court had rightly appreciated the facts of the case and had rightly rejected the baseless application moved by the contesting respondents. The impugned order of the High Court, being not in conformity with the applicable legal principles, is required to be set aside.”

33. This court refers to the **very recent decision of the Hon’ble Supreme Court in Sunkari Tirumala Rao vs Penki Aruna Kumari 2025 1 CTC 634** wherein specific emphasis and discussion regarding the mandate of Section 69(1) to 69(3) of the Indian Partnership Act, 1932 was succinctly detailed 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.

Question No. 4: It would be noticed that the present suit has been brought by the plaintiff alone and in spite of the objection raised on behalf of the defendants, he did not care to implead Seth Sujan Chand who was a necessary party to the suit. Assuming without holding therefore, that section 69 of the Partnership Act did not apply to the present case, the plaintiff could not in any event maintain the suit for recovery of the aforesaid amount (which was made up of items, some of which were admittedly due to the old Sethiya & Co.) without impleading Seth Sujan Chand.”

10. 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.”

12. In the case on hand, the petitioners (original plaintiffs) had filed the suit for recovery of money in their capacity as partners of an unregistered partnership firm, against the respondent (original defendant) in her capacity as a partner of the same unregistered partnership firm. The Trial Court itself had arrived at a finding that the

agreement executed between the parties was in fact a partnership deed and not a bond as claimed by the petitioners.

13. The partnership deed dated 11.12.2009 reads as thus:

“II. My taluk jenny Stone Crusher Quarry in Amathi village, Therlam Mandalam, Vizianagaram. District. I am running the crusher quarry. I am having all rights in my crusher quarry. Now it is difficult for me to run the crusher quarry. I was asked to run the crusher quarry with partnership. My well-wisher asked me to run and i agreed to give the quarry in partnership keeping with me 25%, No.1 of us 20%, No. 2 of us, No.3 of us 15%, no. 4 of us 15%, No.5 of us 7.5%, No.6 of us 7.5% shares allotted to provide partnership, through shares and through this document received Rs. 30,00,000/- (Rupees Thirty Lakhs) so allotted the shares mentioned above through this document.

From today onwards as per the allotment of shares enjoy the schedule properties with all easementary rights and profits and loss. Every month distributions verify and maintain the shares of your properties. I will never object in any manner. Pay the crusher quarry and taxes to the Government. I can not do any dispute believing you persons and handing over to you people.”

14. A perusal of the partnership deed clearly reveals that the sum of Rs. 30,00,000/- which was given to the respondent and which is now sought to be recovered, was rendered by the petitioners as capital for the purpose of acquiring 75% shares collectively in the partnership firm. As per the arrangement, the respondent was to hold the remaining 25% shares. Therefore, there is no doubt that the suit for recovery was filed by a set of partners together on one side, against another partner, for the purpose of enforcing a right accruing under the agreement.

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 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.

16. It would have instead been appropriate for the petitioner to have preferred a suit for dissolution of the partnership firm and rendition of accounts, especially considering that the factum of non-registration of the partnership firm would not have acted as bar in a suit for dissolution in light of the exception carved out under Section 69(3). The defence that the partnership business had not yet commenced and thus, such a suit for dissolution could not have been preferred, would not be of any avail to the petitioners, particularly for overcoming the jurisdictional bar under Section 69(1). The High Court is right in taking the view that a suit of such nature could not be said to be maintainable in the absence of the registration of the partnership firm."

34. It is from the record that the plaintiff has filed this present suit for recovery of money from the defendants. The plaintiff draw strength from the agreement of partnership on 20.02.2015 in the name and style of "YES R YES AUTOS" wherein the plaintiff firm claims to have involved in Wholesale Trading in Automobile Spares and also in trading of two wheeler extra fitting accessories and its oriented items. It is also from the plaint averments that the defendants approached the plaintiff and given an order for supply of two wheeler spare parts and extra fittings accessories from 28.03.2019 to 10.03.2020, the defendants have failed to pay the outstanding amounts to the plaintiff as per the invoice bills and ledger statement and that the defendant is liable to pay an outstanding amount of Rs.5,82,126/- with interest, which they failed

to do so inspite of legal notices and that the plaintiff firm is before this court seeking relief against the defendants.

35. This court refers to the **portion of clause of the partnership deed dated 20.02.2015** of the plaintiff firm. It read thus:

“In respect of Partnership Business they has decided to continue as and from today Under the Name and Style of YES R YES AUTOS at 1/397-A, Krishnamoorthi Street, N.G.G.O Colony (po), Coimbatore – 641 022. Witness as under:-

Whereas the parties of the first and second parties where caring on the business of Wholesale Trading in Automobile Spares in Partnership in the Name and Style of YES R YES AUTOS as evidenced by the deed of Partnership Deed dated 20/02/2015.

13. Any other matter that has not been specifically referred to herein shall be dealt with in accordance with the provision of Indian Partnership Act 1932.”

36. Admittedly, the plaintiff has not adduced any documentary evidence showing the registration of plaintiff's firm except the alleged partnership deeds vide Ex.A3. This court finds that the registration of the firm is a **sine qua non** to maintain a suit against a person and to seek the relief for recovery of money. This court finds that registration of partnership firm is a pre-requisite for initiating law suits on behalf of the firm or against the third party. If the names of the partners are not recorded in the Registrar of Firms, lawsuits cannot be initiated as they are directly related to the contracts.

37. The learned plaintiff counsel argued that the registration of plaintiff's partnership firm is not mandatory and further for argument sake, if accepted, the plaintiff counsel canvassed before this court that he is entitled to the suit claim and the very **lis** is maintainable for the reason that the defendant has admitted his liability towards the plaintiff and has even given the alleged invoice bills vide Ex.A5 to Ex.A54 dated

28.03.2019 to 10.03.2020, alleged ledger statement vide Ex.A57 and that he has a statutory claim against the defendant and thus contended that the present suit is maintainable dehors of the registration of plaintiff's firm. This court is not convinced with the argument advanced by the learned plaintiff's counsel in this regard. This court finds that the alleged invoice bills vide Ex.A5 to Ex.A54 dated 28.03.2019 to 10.03.2020 and alleged ledger statement vide Ex.A57 were issued only on behalf of the outstanding liability of the defendant towards the plaintiff for the goods supplied by the plaintiff to the defendant and is not an independent transaction, which this court finds that the rigor of the mandate under Section 69(2) Partnership Act gets attracted to the case on hand.

38. It is not the case of the plaintiff that he is seeking common law remedy. The plaintiff has entered into business transaction in the capacity of his firm on the strength of the partnership deed of the plaintiff's firm. Fact being so, the business transactions with the defendants in the capacity of the Firm requires strict adherence to the provisions of The Indian Partnership Act 1932, which mandates registration of the partnership firm and this court feels that the plaintiff's being a non registered firm has not passed the litmus and there exist a very threat to the maintainability of the very suit seeking relief for recovery of money against the defendant herein. There is no material before this court pertaining to the registration certificate of the plaintiff's partnership firm, to substantiate his very locus to maintain a *lis*. The plaintiff has neither produced the registration certificate of his partnership firm nor produced the renewal of his registration, if made any.

39. This court is of firm view that Section 69(2) cannot bar the enforcement by way of suit by an unregistered firm in respect of a statutory right or a common law right. It is from the case records that the plaintiff placing reliance on the invoices, statement of accounts and other documentary evidences, has sought a relief for recovery of

money against the defendant arising out of contract (contract could be either oral or written on the strength of the partnership firm in the normal course of business) and that the plaintiff being an un-registered firm, cannot maintain a suit against the defendant and having held so, the present suit against the defendant is not maintainable and subsequent registration of firm by the Plaintiffs also would not cure the defect as mandated under Sec.69(2) of The Indian Partnership Act 1932.

40. In view of the **mandate of the Section 69(2) of the Indian Partnership Act, 1932**, in view of non-registration, non-renewal (if any) and non-production of plaintiff's Partnership Firm/details which is a *sine qua non*, this court finds that the plaintiff firm would be precluded in seeking relief against the defendant for claim of Rs.5,82,126/- with interest. **This court comes to an irresistible conclusion that without adverting to the merits of the case, the preliminary issue on the maintainability of the present suit by the plaintiff is decided against the plaintiff and thus the plaintiff being a unregistered partnership firm cannot seek relief for recovery of money against the defendant as pleaded.**

41. In the result, the Suit is dismissed and the respective parties are directed to bear their costs.

Typed directly into the Computer, corrected, printed out and pronounced by me in the open court on this, 13th Day of March, 2026.

Judge,
Commercial Court,
(Senior Civil Judge Cadre),
Coimbatore.

I. List of Plaintiff side Witness:

1. PW1 –R. Ragunath (Partner, Plaintiff Company)

II. List of Plaintiff side Exhibits:

1	Ex. A1	-	வாதியின் ஆதார் அட்டை	Copy
2	Ex. A2	21.03.2018	வாதி நிறுவனத்தின் -Registration Certificate (GST)	Copy
3	Ex. A3	-	Partnership Deed	Copy
4	Ex. A4	-	பிரதிவாதி நிறுவனத்தின்- Registration Certificate (GST)	Copy
5	Ex. A5	28.03.2019	Invoice No.GST-537/18-19 (Rs.39,680)	Original
6	Ex.A6	15.04.2019	Invoice No.SRS-022/19-20(Rs.31,104)	Original
7	Ex.A7	15.04.2019	Invoice No.SRS-020/19-20(Rs.28,160)	Original
8	Ex.A8	15.04.2019	Invoice No.SRS-026/19-20(Rs.12,928)	Original
9	Ex.A9	23.04.2019	Invoice No.SRS-033/19-20(Rs.28,160)	Original
10	Ex.A10	25.04.2019	Invoice No.SRS-035/19-20(Rs.57,984)	Original
11	Ex.A11	25.04.2019	Invoice No.SRS-036/19-20(Rs.28,160)	Original
12	Ex.A12	02.05.2019	Invoice No.SRS-045/19-20(Rs.40,960)	Original
13	Ex.A13	02.05.2019	Invoice No.SRS-047/19-20(Rs.40,960)	Original
14	Ex.A14	13.05.2019	Invoice No.SRS-064/19-20(Rs.6,144)	Original
15	Ex.A15	18.05.2019	Invoice No.SRS-072/19-20(Rs.28,160)	Original
16	Ex.A16	18.05.2019	Invoice No.SRS-071/19-20(Rs.42,240)	Original
17	Ex.A17	03.06.2019	Invoice No.SRS-093/19-20(Rs.58,880)	Original
18	Ex.A18	18.06.2019	Invoice No.SRS-120/19-20(Rs.33,280)	Original
19	Ex.A19	18.06.2019	Invoice No.SRS-121/19-20(Rs.9,984)	Original
20	Ex.A20	19.06.2019	Invoice No.SRS-124/19-20(Rs.26,880)	Original
21	Ex.A21	09.07.2019	Invoice No.SRS-149/19-20(Rs.15,552)	Original
22	Ex.A22	09.07.2019	Invoice No.SRS-148/19-20(Rs.31,104)	Original
23	Ex.A23	30.07.2019	Invoice No.SRS-183/19-20(Rs.30,976)	Original

24	Ex.A24	30.07.2019	Invoice No.SRS-184/19-20(Rs.21,888)	Original
25	Ex.A25	01.08.2019	Invoice No.SRS-187/19-20(Rs.33,984)	Original
26	Ex.A26	20.08.2019	Invoice No.SRS-216/19-20(Rs.31,040)	Original
27	Ex.A27	21.08.2019	Invoice No.SRS-219/19-20(Rs.17,408)	Original
28	Ex.A28	22.08.2019	Invoice No.SRS-221/19-20(Rs.7,808)	Original
29	Ex.A29	26.08.2019	Invoice No.SRS-226/19-20(Rs.21,312)	Original
30	Ex.A30	10.09.2019	Invoice No.SRS-251/19-20(Rs.28,416)	Original
31	Ex.A31	13.09.2019	Invoice No.SRS-257/19-20(Rs.28,416)	Original
32	Ex.A32	14.09.2019	Invoice No.SRS-259/19-20(Rs.2,112)	Original
33	Ex.A33	26.09.2019	Invoice No.SRS-271/19-20(Rs.59,986)	Original
34	Ex.A34	05.10.2019	Invoice No.SRS-282/19-20(Rs.49,920)	Original
35	Ex.A35	12.10.2019	Invoice No.SRS-291/19-20(Rs.45,184)	Original
36	Ex.A36	12.10.2019	Invoice No.SRS-290/19-20(Rs.45,184)	Original
37	Ex.A37	23.10.2019	Invoice No.SRS-303/19-20(Rs.49,915)	Original
38	Ex.A38	01.11.2019	Invoice No.SRS-316/19-20(Rs.38,144)	Original
39	Ex.A39	01.11.2019	Invoice No.SRS-315/19-20(Rs.42,240)	Original
40	Ex.A40	08.11.2019	Invoice No.SRS-329/19-20(Rs.51,226)	Original
41	Ex.A41	28.11.2019	Invoice No.SRS-350/19-20(Rs.27,264)	Original
42	Ex.A42	06.12.2019	Invoice No.SRS-360/19-20(Rs.23,232)	Original
43	Ex.A43	06.12.2019	Invoice No.SRS-361/19-20(Rs.36,224)	Original
44	Ex.A44	09.12.2019	Invoice No.SRS-362/19-20(Rs.56,792)	Original
45	Ex.A45	01.01.2020	Invoice No.SRS-387/19-20(Rs.67,420)	Original
46	Ex.A46	07.01.2020	Invoice No.SRS-394/19-20(Rs.31,296)	Original
47	Ex.A47	07.01.2020	Invoice No.SRS-393/19-20(Rs.31,296)	Original
48	Ex.A48	22.01.2020	Invoice No.SRS-413/19-20(Rs.45,184)	Original
49	Ex.A49	22.01.2020	Invoice No.SRS-414/19-20(Rs.45,184)	Original
50	Ex.A50	23.01.2020	Invoice No.SRS-415/19-20(Rs.43,875)	Original
51	Ex.A51	14.02.2020	Invoice No.SRS-459/19-20(Rs.22,592)	Original

52	Ex.A52	14.02.2020	Invoice No.SRS-460/19-20(Rs.22,592)	Original
53	Ex.A53	10.03.2020	Invoice No.SRS-509/19-20(Rs.49,512)	Original
54	Ex.A54	10.03.2020	Invoice No.SRS-510/19-20(Rs.44,544)	Original
55	Ex.A55	10.10.2022	Legal Notice	Copy
56	Ex.A56	17.10.2022	Returned Postal Cover	Copy
57	Ex.A57	As on 13.11.2024	Defendant's Ledger Statement	Copy

III. List of Defendants side Witnesses:

- Nil-

IV. List of Defendants side Exhibits:

- Nil-

Judge,
Commercial Court,
(Senior Civil Judge Cadre),
Coimbatore.

*Fair / Draft Judgment,
C.O.S. 343 of 2024.
Date: 13.03.2026.
SCJ, CBE.*