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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 561/2022

M/S NU-STORES PVT. LTD.

..... Plaintiff

Through: Mr. Pankaj Vivek & Mr. Deepak
Singh, Advs (Mobile
No.9811215778)

versus

M/S MARVELOUS EXPORTS PVT. LTD. & ORS.

..... Defendant

Through: Mr. Vineet Jhanji & Mr. Imran
Moulaey, Advs. for D-1

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. SHUCHI LALER,
(DHJS)**

ORDER

22.09.2022

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1. The present is a suit for partition and is at the initial stage of issuance of summons. On the last date (12/09/2022), learned counsel for defendant no.1 had opposed the issuance of summons and had submitted that he has a right to be heard even prior to issuance of summons. He challenges the issuance of summons in the instant matter on the following grounds:-

(a) **Firstly**, the summons shall not be issued in a routine and mechanical manner. Section 27 CPC and Order V Rule 1 CPC provides that issuance of summons is directory and not mandatory, so the Court is not duty bound to issue summons in



each and every case.

(b) **Secondly**, the plaint, in the instant matter, is liable to be rejected under Order VII Rule 11 CPC and Order IV Rule 1 (2) CPC mandates that the plaint shall comply with the rules contained in Order VI and VII CPC.

(c) **Lastly**, a plea of rejection of plaint under Order VII Rule 11 CPC can be agitated at any stage even before registration of plaint or issuance of summons.

2. In support of aforesaid contentions, learned counsel for defendant no.1 has placed reliance upon the judgments titled as '*Tajunissa and Anr. Vs. Vishal Sharma and Others*', 2021 LAWPACK (Del) 84227 & '*Church of Christ Charitable Trust and Educational Charitable Society Vs. Ponniamman Educational Trust*' 2012 LAWPACK (SC) 51323
3. Learned counsel for plaintiff submits that the defendant no.1 cannot be permitted to make a bald assertion regarding the suit being not maintainable under Order VII Rule 11 CPC.
4. Learned counsel for defendant no.1 submits that he will disclose the specific grounds for rejection of plaint before the Hon'ble Court when the arguments on rejection of plaint would be addressed.
5. As learned counsel for defendant no.1 has raised objection regarding maintainability of the present suit and has vehemently urged that the plaint is liable to be rejected under Order VII Rule 11 CPC, the matter needs to be placed before the Hon'ble Court for appropriate directions.



6. The matter may be placed before the Hon'ble Court on **18th October, 2022** for further directions.

SHUCHI LALER, (DHJS)
JOINT REGISTRAR (JUDICIAL)

SEPTEMBER 22, 2022/nk

[Click here to check corrigendum, if any](#)