

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.437 OF 2017

ORDER:

The petitioners being aggrieved vide order dated 05.01.2017 passed in I.A (CFR) No.19608 of 2016 in O.S.No.220 of 2016 by the I Additional Senior Civil Judge, Guntur.

2. Learned counsel appearing on behalf of the petitioners submits that the petitioners had formed a partnership firm under the name and style of "Prashanthi Ladies Hostel" and to that effect a partnership deed was executed on 02.11.2013. Accordingly, the petitioners herein have obtained the suit property and they were put in possession in the year 2013. The respondents/defendants agreed to extend the lease after 11 months, as such, the petitioners invested more than Rs.5 lakhs, and mere non-registration of the partnership deed will not disentitle the second petitioner in respect of the above named Hostel.

3. The Court below considered the plea of the petitioners and recorded that partnership deed dated 02.11.2013 was between petitioners No.1 and 2 and constituting partnership business under the name and style of 'Prashanthi Ladies Hostel'. But the said partnership deed is not registered with Registrar of Firms. Accordingly, the Court below observed that Section 69 of the Indian Partnership Act deals with 'effect of non-registration of the firm'. As per Section 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 Registrar of Firms as a partner in the firm.’

4. The court below further recorded that the second petitioner intends to come on record as partner of the first petitioner by alleging that both the petitioners constituted Prashathi Ladies Hostel, a partnership firm, in a suit filed by the first petitioner for permanent injunction.

In a case reported in **P. Venkateswarlu vs C. Lakshmi Narasimha Rao (Died)**¹, whereby held that Section 69(3) (a) of Indian Partnership Act is exception to Section 69 (1) of Indian Partnership Act. Section 69(3) (a) deals with the situation ‘where 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 realize the property of a dissolved firm, but not otherwise’. Accordingly, the petitioner is not entitled to claim as a partner of the partnership firm between the petitioners No.1 and 2 basing on un-registered partnership deed. Accordingly, the trial Court has dismissed the petition.

5. I have perused the impugned order and put a query to the learned counsel for the petitioner that what is wrong in the order passed by the court below, to which, he could not give any response. Moreover Section 69 of the Indian Partnership Act is a bar in allowing the petition of the petitioners under the facts and circumstances of the present case.

6. In view of the above, I find no illegality or perversity in the order passed by the Court below.

¹ 2001 (3) ALT 449

7. Accordingly, this Civil Revision Petition is dismissed.
There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT.

Date :28-03-2017

Gvl

