

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD***

CIVIL REVISION APPLICATION NO. 213 OF 2018

Pratap Baburao Jagtap

...Applicant

VERSUS

Ramesh Adhinath Jagdhane and other

...Respondents

Mr. R.A.Deshmukh, advocate for applicant

Coram : N.M. Jamdar, J.

Date : 19 December 2018.

Oral Order :

Heard learned counsel for the applicant.

2. This Revision Application challenges the order passed by the learned Civil Judge, Senior Division, Osmanabad, rejecting the application under Order VII Rule 11 of the Code of Civil Procedure. The applicant had moved the application on the ground that the

plaintiffs have sought to assert a right in respect of unregistered partnership firm and in view of Bar of Section 69 of the Indian Partnership Act, the suit is not maintainable. This application has been rejected.

3. Perusal of the plaint filed by the respondents/plaintiffs shows that the respondents/plaintiffs have stated that the property was purchased jointly by the parties with an intention to demolish the old structure and construct commercial complex. It is further stated that all partners independently raised money and they entrusted the same to defendant no.3 as a trust. It is at only place that the plaintiffs have stated the word, “partners”.

4. Learned Civil Judge, based on this plaint, has opined that there is no existence of any partnership. There is no error in the view taken by the learned Civil Judge. Whether there exists a partnership or otherwise, would be a subject matter of evidence and if during trial it emerges that there was in fact an unregistered firm, then the Court will, no doubt, look into the Bar of Section 69 of the Indian Partnership Act.

5. With these observations, Civil Revision Application is disposed of.

N.M.Jamdar, J.