

B.R. SOLVEX PVT LTD & ANR VS RSA TRADING COMPANY

Present: Mr. Alok Kumar Jain, Advocate
for the applicant/respondent.

Applicant/respondent seeks to argue this case on merits on the ground that due to wrong recording of the date as 18.10.2018, he could not appear on 08.10.2018.

I have heard learned counsel for the applicant/respondent.

The factum of suit having been decreed under Order 37 CPC by dismissing the application for grant of leave to defend has not been denied by learned counsel for the applicant/respondent. It is also an admitted fact that in appeal before the Lower Appellate Court, leave was granted and the case was remanded to the trial Court. Thereafter, the suit became a regular suit in which application under Order 7 Rule 11 CPC was filed. The pleadings with regard to partnership firm being registered or otherwise are silent in the plaint. Whether the suit is barred under Section 69 of the Partnership Act is a fact to be taken notice of by the Court while perusing the plaint at the stage of Order 7 Rule 11 CPC.

Since the Court did not adhere to the aforesaid fact, therefore, this Court simply remanded the case to the trial Court

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to decide the application under Order 7 Rule 11 CPC afresh by way of passing speaking order touching each and every ground taken by the defendants in accordance with law.

No indulgence can be granted in this review application. The same is accordingly dismissed.

December 07, 2018
Prince

**(RAJ MOHAN SINGH)
JUDGE**