



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Civil Revision Application No. 11 of 2023

[Priya W/o Sonu Gulhane ..vs.. Dwarkadas Kawdamal Katariya]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. T. U. Tathod, Advocate for the applicant

Mr. N. D. Borkar, Advocate for the non-applicant/respondent

CORAM : ANIL L. PANSARE J.

DATED : 9-10-2023

Heard.

2. The challenge is to the order dated 3-11-2022 passed by learned 2nd Joint Civil Judge Junior Division, Karanja Lad, District Washim by which the application filed by the applicant (original defendant) under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC) has been rejected.

3. Having heard both sides, it appears that the plaintiff/non-applicant has filed a suit for eviction and arrears of rent under the provisions of Maharashtra Rent Control Act, 1999. The non-applicant has, by way of amendment in the plaint, incorporated the fact that the applicant and the non-applicant had once been the business partners. The partnership deed came to be filed. This amendment was brought on record in view of the stand taken by the applicant that she has paid Rs. 60,000/-, to clarify that Rs. 60,000/- has been paid by the applicant to non-applicant as his share in the partnership, after the firm has been dissolved.

4. The applicant has filed application under Order VII Rule 11 of the CPC on the ground that the partnership firm is unregistered and thus the suit is hit by Section 69 of the Partnership Act.

5. The trial Court has dealt with the effect of non-registration as envisaged under Section 69 of the Partnership Act. The trial Court has noted that the applicant and non-applicant were partners and carried business of computer education in the suit premises owned by the plaintiff. After sometime, the non-applicant has taken a decision to quit the said business. The applicant, however, has taken a decision to continue with the business but in the same premises i.e. the suit premises and for that purpose, a separate rent agreement was entered into by and between the applicant and non-applicant in the personal capacity.

6. Accordingly and rightly so, the learned trial Court has rendered a finding that the suit will not be hit by Section 69 of the Partnership Act in terms of the judgment in the case of ***Haldiram Bhujiawala Vs. Anand Kumar Deepak Kumar [(2000) 3 SCC 250]***. I do not find any perversity in the said finding. There is no merit in the application. The application is dismissed.

(Anil L. Pansare, J.)