



2024:DHC:6483



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 27th August, 2024***+ **CM(M) 2556/2024 & CM APPL. 28266/2024 & CM APPL. 28268/2024****SAMARTH TRADING COMPANY & ANR.Petitioner****Through: Mr. Achin Mittal and Mr. Aditya Parmar, Advocates****versus****THANDI RAM JAI NARAINRespondent****Through: None****CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is defending a commercial suit before the learned Trial Court.
2. Such suit was filed under Order 37 CPC.
3. The defendant (petitioner herein) filed an application seeking leave to defend. However, before his such application seeking leave to defend could be heard and decided, plaintiff moved an application under Order XI Rule 1 (4) & (5) CPC praying for placing on record additional document. Plaintiff merely wanted to place on record "certificate" in order to show that his firm was duly registered.
4. Said application has been allowed by the learned Trial Court on 15.03.2024 and the defendant has taken exception to said order.
5. According to learned counsel for defendant/petitioner herein, plaintiff



has not disclosed any justifiable reason which prevented from filing the aforesaid document along with the plaint. It is argued that even the learned Trial Court appreciated the aforesaid aspect and recorded in the impugned order that no reason had been disclosed but despite that learned Trial Court allowed the aforesaid document to be placed on record which is not in consonance with the aforesaid statutory provision.

6. I have seen application which had been moved by the plaintiff under Order XI Rule 1 (4) & (5) CPC and in such application, plaintiff claimed that at the time of filing of the suit, he could not file the Partnership Registration Certificate as the same was not available with him at the relevant time. It also claimed the account of the plaintiff had been declared Non-Performing Asset (NPA) on 31.03.20219 due to sudden fluctuation in the market and because of the dispute arising between the business partners, business activities of the plaintiff firm came to a standstill and due to the closure of business activity, all the documents got misplaced and as a result thereof, Partnership Registration Certificate could not be placed on record.

7. I have seen the observations made in the impugned order by learned Trial Court. It was of the view that said document was of importance as, certainly, it would eventually entitle the plaintiff to file suit, else the suit would be held barred under Section 69 of the Indian Partnership Act. It also observed that non-filing of such document along with the suit may show lack of proper legal advice and also that the plaintiff was not going to gain any advantage by concealing or withholding said document.

8. Learned counsel for petitioner has, however, contended that document, which was sought to be placed on record, does not even show that firm of the plaintiff was duly registered under the Indian Partnership Act.



9. Be that as it may, this Court is of the considered opinion that keeping in mind the nature of document and the fact that case was still at very initial stage, learned Trial Court was fully justified in permitting the plaintiff to place on record such registration certificate. Needless to say, such document goes to the root of the matter and if such document is not permitted to be placed on record, there is possibility that suit may be dismissed being barred, on account of the fact that firm was not registered.

10. This Court is also conscious of the fact that by filing the present petition, petitioner has invoked supervisory powers of this Court under Section 227 of the Constitution of India and this Court does not deem it appropriate to interfere with the impugned order. Reference be made to *Puri Investments Versus Young Friends and Co. and Others: 2022 SCC OnLine SC 283*.

11. Petition is accordingly dismissed *in limine*

12. It is, however, clarified that this Court has not commented about the fact whether the said document actually amounts to valid registration of a firm or not and it will be up to the learned Trial Court to consider the same at appropriate stage.

(MANOJ JAIN)
JUDGE

AUGUST 27, 2024/dr