

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1655 OF 2026

M/s. Wings Eco Homes Pvt. Ltd. And Anr ...Petitioners

**Versus**

M/s. Seth Properties Through Its Partner  
Veena N. Seth ...Respondent

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SUBHASH  
KULKARNI

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Mr. Ajay Panicker, a/w Dhairya Sampat, i/b Ajay Law  
Associates, for the Petitioner.

Mr. Mehul Rathod, a/w Darshana Vora, for the Respondent

**CORAM: N. J. JAMADAR, J.**

**DATED: 17<sup>th</sup> MARCH, 2026**

**Oral Order:-**

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 5<sup>th</sup> September, 2022 passed by the learned Judge, City Civil Court, Greater Bombay, in Summons for Judgment No.281 of 2019, whereby the learned Judge was persuaded to allow the Summons for Judgment.
3. The learned Counsel for the petitioners submitted that the petitioners had raised a specific ground in the affidavit seeking leave to defend the suit that, the persons, who sued on behalf of the firm, have not been shown in the Register of Firms as partners in the firm. In fact, the plaintiff firm was not a

registered partnership firm. It was further contended that Mr. Dinesh Kumar Seth, who had taken out the Summons for Judgment is not a partner of the plaintiff firm. The learned Judge has unjustifiably discarded the said contention by observing that defendant Nos.1 to 9 had not raised the objection that the plaintiff firm is not a registered partnership firm and, the person, who has signed the plaint is not its partner. Attention of Court is invited to the copy of the Firm Registration Certificate issued by the Registrar of Firms.

4. *Prima facie* the Firm Registration Certificate indicates that the names of Smt. Veena N. Seth, who has signed and verified the plaint, and Dinesh Kumar Seth, who has affirmed the affidavit in support of the Summons for Judgment are not shown as the partners of the firm.

5. The learned Counsel for the respondent – plaintiff submitted that the copy of the Firm Registration Certificate was not placed on the record of the trial Court when the impugned order was passed. According to his instructions, the person, who has signed and verified the plaint and the person who has affirmed affidavit in support of the Summons for Judgment, are the partners of the firm.

6. Evidently, the genesis of the dispute is in a contract between the parties evidenced by the negotiable instrument. Thus the provisions contained in Section 69(2) of the Indian Partnership Act, 1932, are *prima facie*, attracted. In these circumstances, the question as to whether the plaintiff firm is a registered partnership firm and, the person, who has signed and verified the plaint, is a partner of the firm, are the factors which go to the root of the matter. These issues were, therefore, required to be adverted to by the trial Court while deciding the question whether leave to defend is required to be granted. The learned Judge could not have discarded the said defences raised by the defendants/petitioners on the premise that defendant Nos.1 to 9 had not raised the said ground.

7. In these circumstances, the impugned order cannot be sustained. Resultantly, the Summons for Judgment is required to be remitted back to the learned Judge, City Civil Court, to decide the same afresh after also considering the applicability of the bar to the tenability of the suit under Section 69(2) of the Indian Partnership Act, 1932.

8. The petition, thus, stands partly allowed.

9. The impugned order stands quashed and set aside.

10. Summons for Judgment No.281/2019 stands restored to the file of the learned Judge, City Civil Court, for a fresh decision on merits.

11. The petitioners shall be entitled to place on record copy of the Firm Registration Certificate alongwith an affidavit.

12. The respondent – plaintiff shall be entitled to file an additional affidavit and documents to show that the plaintiff firm is indeed a registered partnership firm and the person, who has signed and verified the plaint and, the person, who has affirmed the affidavit in support of the Summons for Judgment, are the partners of the firm.

13. Such additional affidavit be filed by the parties on or before 17<sup>th</sup> April, 2026.

14. The learned Judge, City Civil Court, is requested to make an endeavour to decide the Summons for Judgment as expeditiously as possible and, preferably, within a period of three months from 24<sup>th</sup> April, 2026, the next scheduled listing of the suit.

**[N. J. JAMADAR, J.]**