IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3490 OF 2026

Hi Rock Construction Company ... Petitioner
versus
Divya P. Vora … Respondent

WITH
WRIT PETITION NO.3492 OF 2026

Hi Rock Construction Company … Petitioner
versus
Nirmala Dialani … Respondent

WITH
WRIT PETITION NO.3493 OF 2026

Hi Rock Construction Company … Petitioner
versus
Meena Luthria … Respondent

Dr. Abhinav Chandrachud with Mr. Aadil Parsurampuria, Mr. Aalam Parsurampuria, Ms. Kekesjro Thakar i/by Mr. Prashant Parsurampuria, for Petitioner in WP No.3490 of 2026.
Mr. Aadil Parsurampuria with Mr. Aalam Parsurampuria with Ms. Kejeshri Thakar i/by Mr. Prashant Parsurampuria, for Petitioner in WP No.3492 and 3493 of 2026.

CORAM: N.J.JAMADAR, J.

DATE : 8 APRIL 2026

ORDER :

1. Heard Dr. Chandrachud, learned Counsel for the Petitioner.

2. The challenge in these Petitions is to the identical orders passed by the learned Judge, City Civil Court at Mazgaon, Mumbai, in Notices of Motion taken out by the Petitioner – Defendant No.1 for the return of the plaints in

Summary Suits instituted by the Respondents – Plaintiffs on the ground that the City Civil Court has no jurisdiction to entertain, try and decide the suits.

3. The Respondent instituted the Summary Suits for recovery of the amounts purportedly advanced to the Defendant Nos.2 to 4, who are the partners of Defendant No.1 firm. The substance of the claim of the Respondent – Plaintiff was that, the Respondent – Plaintiff was induced to part with substantial amounts by making dishonest and fraudulent representations that the amounts would be repaid along with quarterly interest @ 12% p.a. Despite acknowledging the liability by executing balance confirmation, the Defendants failed and neglected to repay the amount along with accrued interest. Thus, the Summary Suits to recover the amounts based on the balance confirmation executed by the Defendants.

4. In the plaints, the Respondents – Plaintiffs averred that the Petitioner – Defendant No.1, is a registered partnership firm. Defendant Nos.2 to 4 are the managing partners of the Defendant No.1 firm. The registered office of Defendant No.1 was situated at Dahisar (East). The Defendants also had their office at Dadar (West), Mumbai. The Defendants were working for gain within the territorial limits of the jurisdiction of the City Civil Court.

5. The Petitioner took out Notices of Motion seeking return of the plaints contending, inter alia, that the Defendant No.1 firm was carrying on business at its registered office at Dahisar, which was beyond the local limits of the

jurisdiction of the City Civil Court. The Plaintiffs had resorted to clever drafting by showing the branch office as the address of Defendant No.1 firm. Since no part of cause of action arose within the jurisdiction of the City Civil Court, the plaints were required to be returned to the Plaintiffs for presentation to the proper Court.

6. After hearing the parties, by the impugned order, the learned Judge, City Civil Court, was persuaded to reject the Notices of Motion holding, inter alia, that there were specific averments in the plaints that the Defendant No.1 was also having its office at Dadar (West), Mumbai and Defendant Nos.2 to 4, partners of Defendant No.1 firm, were residing and working for gain within the local limits of the jurisdiction of the City Civil Court. Since the Defendants had not raised any objection to the territorial jurisdiction of the City Civil Court in the affidavit filed seeking leave to defend the suits, the assertion that the Defendants were carrying on business at its branch Office at Dadar (W), remained uncontroverted.

7. Dr. Chandrachud, learned Counsel for the Petitioners, submitted that, the learned Judge, city Civil Court has misconstrued the provisions contained in Section 20 of the Code of Civil Procedure, 1908. If the learned Judge, City Civil Court professed to exercise the jurisdiction on the premise that Defendant Nos.2 to 4 were residing within the local limits of the jurisdiction of the City Civil Court, then the suit could not have been entertained in the

absence of the leave of the Court to institute a suit against Defendant No.1, whose registered office is admittedly situated at Dahisar.

8. Secondly, the mere fact that the Branch office of Defendant No.1 was situated at Dadar (W), would not confer jurisdiction on the City Civil Court, Mumbai, unless it could be demonstrated that the cause of action also arose at the place where the Defendant No.1 has a Branch office. Inviting the attention of the Court to the Explanation to Section 20 of the Code, 1908, Dr. Chandrachud strenuously submitted that the term ‘Corporation’ used in the said Explanation is of wide amplitude and covers in its fold a partnership firm also. The learned Judge, City Civil Court, did not advert to this aspect of the matter, and, thus, committed an error in holding that the City Civil Court at Mumbai had the jurisdiction to entertain, try and decide the suits.

9. To buttress the aforesaid submissions, Dr. Chandrachud placed a very strong reliance on the judgment of the Supreme Court in the case of **Hakam Singh V/s. Gammon (India) Ltd.**[1], wherein it was enunciated that the expression ‘Corporation’ used in the Explanation to Section 20 is not restricted to a statutory Corporation, but also includes the legal person and includes the Company registered under the Companies Act.

10. Dr. Chandrachud also placed reliance on the judgment of the Supreme Court in the case of **Dashrath Rupsingh Rathod V/s. State of Maharashtra**

1 (1971) 1 SCC 286

and Anr.[2], wherein in the context of the jurisdiction of the Court to take cognizance of an offence punishable under Section 138 of the Negotiable Instruments Act, 1881, a three-Judge Bench of the Supreme Court, enunciated that the Corporations and partnership firms, and even sole proprietorship concerns could well be transacting business simultaneously in several cities, and if the Defendant's location is to form the fulcrum of jurisdiction, the Plaintiff is precluded from instituting the suit anywhere else, than the place where the Defendant has a branch Office and the cause of action has accrued.

11. Reliance was also placed on a decision of a learned Single Judge of this Court in the case of **Lyka Labs Limited and Anr. V/s. State of Maharashtra and Anr.**[3], wherein a distinction was sought to be drawn between the legal person and the juristic person to the effect that a legal person is any subject-matter other than a human being to which the law attributes personality. A juristic person is a body of persons, a corporation or company, a partnership or other legal entity recognized by law as the subject of rights and duties, also called an artificial person.

12. Banking upon the aforesaid pronouncements, Dr. Chandrachud would urge that a registered partnership firm does satisfy the description of the 'Corporation' within the meaning of the Explanation to Section 20 of the Code.

2 (2014) 9 SCC 129
3 2023 SCC Online Bom 560

Thus, if it is not the case of the Plaintiffs that, a part of the cause of action arose within the local limits of the jurisdiction of the City Civil Court, where the branch office of Defendant No.1 is situated, the City Civil Court lacked the jurisdiction to entertain, try and decide the suits.

13. In substance, the question as to whether the partnership firm falls within the ambit of the expression 'Corporation' within the meaning of the Explanation to Section 20 of the Code, 1908, wrenches to the fore.

14. Section 20 of the Code, 1908, reads as under :

> **"20. Other suits to be instituted where defendants reside or cause of action arises.** - Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction -
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> (a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or
>
> (b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or
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> (c) the cause of action, wholly on in part, arises.
>
> Explanation – A Corporation shall be deemed to carry on business at its sole or principal office in India or, in respect of any cause of action arising at any place where it has also a

subordinate office, at such place."

15. On a plain reading, it becomes evident that, the aforeextracted Explanation to section 20 addresses two distinct situations. First part of the Explanation applies to such a corporation which has its sole or principal office at a particular place. In such cases, notwithstanding the fact that, such defendant – corporation might not be actually carrying on business at the place where the sole or principal office of the defendant is situated, the courts within whose jurisdiction the sole or principal office of the defendant is situated, will have jurisdiction to entertain, try and decide the suit as such corporation 'will be deemed to carry on business ' at that place. The first part of the Explanation, thus, incorporates a deeming fiction.

16. The second part of the Explanation governs the case where the defendant does not have the sole office, but has principal office at one place and also has a subordinate office at another place. Two parts are separated by 'or', a disjunctive. If the case is covered by the second part of the Explanation, it is not the Court within whose jurisdiction the principal office of the defendant is situated, but the Court within whose jurisdiction it has a subordinate office, which alone shall have jurisdiction 'in respect of any cause of action, at any place, where it has also a subordinate office'. Thus, if the defendant – corporation has a subordinate office where the cause of action

arises, the suit must be instituted at that place alone irrespective of the options available to the Plaintiff to institute a suit at the other places, postulated under Section 20 of the Code. (**Patel Roadways Limited, Bombay v/s. Prasad Trading Company**[4]).

17. In the case at hand, the Petitioner asserts a converse scenario. It is the claim of Defendant No.1 firm that the plaints do not disclose that a part of the cause of action has arisen within the local limits of the branch office of Defendant No.1 firm at Dadar (West), Mumbai, and, therefore, the suits ought to have been instituted in the Court within the local limits of whose jurisdiction the registered office of the Defendant No.1 is situated.

18. To this end, Dr. Chandrachud wants the Court to construe the expression 'Corporation' to include the partnership firm. Indeed, in the case of **Hakam Singh (supra)**, the Supreme Court repelled the submission that the expression 'Corporation' in Explanation II to Section 20 of the Code, as it then stood, includes a statutory corporation only and not the company registered under the Companies Act. It was postulated that the Code uses the expression 'Corporation' as meaning a legal person and includes a company registered under the Indian Companies Act. Order XXIX of the Code deals with suits by or against a corporation and there is nothing in the Code that a Corporation referred to under Order 20 means only a statutory corporation

4 (1991) 4 SCC 270

and not a company registered under the Indian Companies Act.

19. In the case of **S.S.Dhanova V/s. Municipal Corporation**[5], the Supreme Court further expounded the import of the expression 'Corporation', as under :

> "8. A corporation is an artificial being created by law having a legal entity entirely separate and distinct from the individuals who compose it with the capacity of continuous existence and succession, notwithstanding changes in its membership. In addition, it possesses the capacity as such legal entity of taking, holding and conveying property, entering into contracts, suing and being sued, and exercising such other powers and privileges as may be conferred on it by the law of its creation just as a natural person may……."

20. The aforesaid pronouncements, however, do not advance the cause of the submission on behalf of the Petitioner to the extent desired by the Petitioner. The expression 'Corporation' is not elastic enough to include all forms of associations of persons. Juristic and independent personality and perpetual succession are the hallmarks of 'Corporation', statutory or incorporated. Those inseparable attributes of a corporate entity cannot be found in all firms of assocations. The fundamental distinction between a Corporation and a registered partnership firm, cannot be lost sight of. The partnership firm is not a legal person, even though it has some attributes of

5 (1981) 3 SCC 431

personality. The partnership is, in a sense, certain relations between persons who have agreed to share profits of the business. Partnership firm has no independent juristic personality. The firm, as such, has no legal recognition.

21. A useful reference can be made to a judgment of the Supreme Court in the case of **Commissioner of Income Tax, Madras V/s. R.M.Chidambaram Pillai and Ors.**[6], wherein the Supreme Court, inter alia, considered the question, '<u>is the firm a person or a mere shorthand name for a collection of persons</u> ? The observations of the Supreme Court in paragraphs 15 to 17 are instructive and, hence, extracted below :

> "15. Is the firm a person or a mere shorthand name for a collection of persons, commercially convenient but not legally recognised? Under Section 3 of the Partnership Act it is not a person, but a relationship among persons. Lindley, on Partnership[7] has this:
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> "The firm is not recognised by English lawyers as distinct from the members composing it. In taking partnership accounts and in administering partnership assets, courts have to some extent adopted the mercantile view, and actions may now, speaking generally, be brought by or against partners in the name of their firm; but, speaking generally, the firm as such has no legal recognition. The law, ignoring the firm, looks to the partners composing it; any change amongst them destroys the identity of the firm; what is called the property of the firm is their property, and what are called the debts and liabilities of

6 (1977) 1 SCC 431
7 12th Edition, P. 28, Sweet and Maxwell

the firm are their debts and their liabilities. In point of law,. a partner may be the debtor or the creditor of his copartners, but he cannot be either debtor or creditor of the firm of which he is himself a member, nor can he be employed by his firm, for a man cannot be his own employer."

16. The Indian law of partnership is substantially the same and the reference in counsel's submissions to the Scottish view of a firm being a legal entity is neither here nor there. Primarily our study must zero on the Indian Partner- ship Act and not borrow courage from foreign systems. In **Bhagwanji Morarji Gokuldas**[8] the Privy' Council ruled that the the Indian Partnership Act went beyond the English Partnership Act, 1890, the law in India. attributing personality to a partnership being more in accordance with the law of Scoff and. Even so, Sir John Beaumont, in that case, pointed out that the Indian Act did not make a firm a corporate body. Moreover, we are not persuaded by that ruling of the Privy Council, particularly since a pronouncement of this court in **Dulichand**[9] strikes a contrary note. We quote :

“In some systems of law this separate personality of a firm apart from its members has received full and formal recognition as, for instance, in Scotland. That is, however, not the English common law conception of a firm. English lawyers do not recognise a firm as an entity distinct from the members composing it. 'Our partnership law is based on English law and we have also adopted notions of English lawyers as regards a partnership firm."

The life of the Indian law of partnership depends on its own . terms although habitually courts, as a hangover of the

8 AIR 1948 PC 100
9 1956 SCR 154

past, have been referring to the English law on the point. The matter is concluded by the further observations of this Court :

"It is clear from the foregoing discussion that the law, English as well as Indian, has, for some specific purposes, some of which are referred to above, relaxed its rigid notions and extended a limited personality to a firm. Nevertheless, the general concept of a partnership, firmly established in both systems of law, still is that a firm is not an entity or 'person' in law but is merely an association of individuals and a firm name is only 'a collective name of those individuals who constitute the firm. In other words, a firm name is merely an expression, only a compendious mode of designating the persons who have 'agreed to carry on business in partnership. According to the principles of English jurisprudence, which we have adopted, for the purposes of determining legal rights 'there is no such thing as a firm known to the law' as was said by James L.J., in Ex parte Corbett: In re Shand[10]. In these circumstances to import the definition of the word 'person' occurring in section 3(42) of the General Clauses Act, 1897, into section 4 of the Indian Partnership Act will, according to lawyers, English or Indian, be totally repugnant to the subject of partnership law as they know and understand it to be."

In Narayanappa[11] the view taken by this court accords with the position above stated.

17. The necessary inference from the premise that a partner- ship is only a collective of separate-persons and not a legal person in itself lends to the further conclusion that

10 (1880) 14 Ch D 122
11 AIR 1966 sc 1300

> the salary stipulated to be paid to a partner from the firm is in reality a mode of division of the firm's profits, no person being his own Servant in law since a contract of service postulates two different persons."

22. Reliance sought to be placed by Dr. Chandrachud on the judgment of the Supreme Court in the case of **Dashrath Rupsingh Rathod V/s. State of Maharashtra (supra)** and a judgment of this Court in the case of **Lyka Labs Limited and Anr. (supra)**, to bolster up a submission that the partnership firm has some sort of legal personality, is not of much assistance. The partnership firm is a compendious mode of designating persons who have agreed to carry on business in partnership. That, however, does not necessarily imply that, in law, the firm is an entity incorporated by persons. It is essentially an association of individuals. Firm name is a collective name of those individuals who constituted the firm. To put in other words, the partnership registered under the Partnership Act, 1932, is neither a person nor a legal entity.

23. A useful reference in this context can be made to a recent pronouncement of the Supreme Court in the case of **Dhanasingh Prabhu V/s. Chandrasekar and Anr.**[12] wherein, in the context of the provisions contained in Section 141 of the Negotiable Instruments Act, 1881, the Supreme Court enunciated in no uncertain terms that the partners and the

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12 (2025) 10 SCC 96

partnership firm are one and the same. Unlike a company, a partnership firm has no independent corporate existence and has no distinct legal persona independent of its partners. The relevant observations in paragraph Nos.41 to 43 read as under :

> "41. A partnership firm, unlike a company registered under the Companies Act, does not possess a separate legal personality and the firm's name is only a compendious reference for describing its partners. This fundamental distinction between a firm and a company rests on the premise that the company is separate from its shareholders. In that context, the words of Lord **Macnaghten in Salomon vs. Salomon & Co. Ltd.**[13] ("Salomon") are instructive :
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> "*..... The company is at law a different person altogether from the subscribers...... and though it may be that after incorporation the business is precisely the same as it was before and the same persons are managers and the same hands receive the proceeds, the company is not in law, the agent of the subscribers or trustee for them. Nor are the subscribers as members liable, in any shape or form, except to the extent and in the manner provided by the Act.*"
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> 42. This distinction does not, however, continue to hold true for a partnership firm. In the seminal case of **Bacha F. Guzdar V/s. CIT**[14], this Court had an opportunity to

13 1897 AC 22(HL)
14 (1954) 2 SCC 563

briefly address this distinction between a partnership firm and a company, wherein it was observed thus:

“13. It was argued that the position of shareholders in a company is analogous to that of partners inter se. This analogy is wholly inaccurate. Partnership is merely an association of persons for carrying on the business of partnership and in law the firm name is a compendious method of describing the partners. Such is, however, not the case of a company which stands as a separate juristic entity distinct from the shareholders.”

43. The partnership name being only a compendious method of describing the partners, it stands to reason that a reference to the partners in their capacity as partners of the firm will be sufficient to impute liability on the partners themselves, whereas directors of a company are made liable vicariously through the company, upon whom falls the primary liability. Thus, the partners and the partnership firm are one and the same. Unlike a company, a partnership firm has no independent corporate existence and has no distinct legal persona independent of its partners. Similarly, the partners of a firm are co-owners of the property of the firm unlike shareholders in a company who are not co-owners of the property of the company……..”

24. The aforesaid being the position in law, the submission on behalf of the

Petitioner that the expression ‘Corporation’ in the Explanation to Section 20 is expansive enough to cover the partnership firm, cannot be readily acceded to. Consistent with the aforesaid legal position, in the facts of the case, if it is held that Defendant No.1 firm is a mere collection of individuals i.e. Defendant Nos.2 to 4, and since Defendant Nos.2 to 4 are residing and working for gain within the local limits of the jurisdiction of the City Civil Court, the submission on behalf of the Petitioner that the suits are not maintainable without the leave of the Court under clause (b) of Section 20 of the Code, does not merit acceptance.

25. The Court also finds that, in the plaint, there are adequate averments to show that Defendant Nos.2 to 4 had induced the Plaintiff to part with the amounts and that Defendant Nos.2 to 4 were working for gain within the local limits of the jurisdiction of the City Civil Court. It is specifically asserted that the balance confirmations were executed by Defendant No.2, for and on behalf of Defendant Nos.1 to 4. Thus, it cannot be urged that there are no averments in the plaint to demonstrate that, a part of the cause of action has arisen within the local limits of the jurisdiction of the City Civil Court. Resultantly, the Writ Petitions deserve to be dismissed.

26. Hence, the Writ Petitions stand dismissed.

(N.J.JAMADAR, J.)

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