

(2018) 10 P&H CK 0347

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3570 Of 2018

B.R. Solvex Pvt Ltd
And Anr

APPELLANT

Vs

RSA Trading Company

RESPONDENT

Date of Decision: Oct. 8, 2018**Acts Referred:**

- Indian Partnership Act, 1932 - Section 69
- Civil Procedure Code, 1908 - Order 7 Rule 11

Citation: (2019) 1 RCR(Civ) 250**Hon'ble Judges:** Raj Mohan Singh, J**Bench:** Single Bench**Advocate:** Mayank Jain, Viren Jain**Final Decision:** Disposed Of

Judgement

Raj Mohan Singh, J

[1]. Petitioner has assailed the order dated 27.04.2018 passed by the Civil Judge (Jr. Divn.) Chandigarh vide which application under Order 7 Rule 11

CPC filed by the defendants/petitioners was dismissed.

[2]. Perusal of the impugned order would show that the objection with regard to the partnership firm being unregistered was raised by the

defendants/petitioners and the said plea was hit by Section 69 of the Partnership Act. The said plea has been discarded by the trial Court only on the

ground that the petitioners have delayed the filing of written statement, rather moved the application under Order 7 Rule 11 CPC just to delay the

disposal of the suit.

[3]. Notice of motion was issued on 25.05.2018 and service qua respondent is complete. However, none appeared on behalf of the respondent despite service.

[4]. I have considered the submissions made by learned counsel for the petitioners.

[5]. It has come on record that initially the suit under Order 37 CPC was decreed by dismissing the application for grant of leave to defend filed by the

defendants/petitioners. In the appeal, the lower Appellate Court granted leave to appeal to the defendants/petitioners and remanded the case to the

trial Court. After grant of leave to appeal, the suit became regular suit in which application under Order 7, Rule 11 CPC was filed. The perusal of

plaint would show that the pleadings with regard to partnership firm being registered or otherwise are silent. Plea was taken by the

defendants/petitioners that the suit is barred under Section 69 of the Partnership Act. The perusal of impugned order would show that the aforesaid

issue has not been touched by the trial Court.

[6]. In view of above facts and circumstances of the case, I deem it appropriate to set aside the order dated 27.04.2018 passed by the Civil Judge (Jr.

Divn.) Chandigarh and remand this case to the trial Court to decide the application under Order 7 Rule 11 CPC afresh by way of speaking order

meeting each and every ground taken by the defendants/petitioners in accordance with law. Ordered accordingly.

[7]. Nothing expressed hereinabove shall be construed to be an expression of opinion on the merits of the case.