

**(1997) 12 BOM CK 0065**

**Bombay High Court (Nagpur Bench)**

**Case No:** Civil Revision Application No. 966 of 1997

M/s. Rita Steel (registered firm)

APPELLANT

Vs

Jainuddin and Brothers

RESPONDENT

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**Date of Decision:** Dec. 10, 1997

**Acts Referred:**

- Partnership Act, 1932 - Section 69(2)

**Citation:** (1998) 2 ALLMR 332 : (1998) 2 BomCR 764 : (1998) 1 CivCC 670 : (1998) 1 MhLj 416

**Hon'ble Judges:** V.S. Sirpurkar, J

**Bench:** Single Bench

**Advocate:** S.V. Purohit and P.B. Thakur, for the Appellant; Vivek Palshikar, for the Respondent

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### **Judgement**

@JUDGMENTTAG-ORDER

V.S. Sirpurkar, J.

Rule. Heard finally with the consent of the parties.

2. All that has the trial Court ordered was to allow the plaintiff firm to file the certificate of registration of the firm and some other documents including the original power of attorney and Bank statements. The defendants objected to the filing of the Certificate of Registration of firm on the ground that u/s 69(2) of the Indian Partnership Act, 1932, there is a complete bar to file the certificate of registration at later stage. The trial Court took the view, based on a reported judgment in Kantilal Chandmal Dhanmandi Ratlam v. Gopal Lal, (1996) 1 C.L.T. 488 that the certificate of registration cannot be filed at the later stage. It is this order which is challenged in this Civil Revision Application.

3. It is nobody's case that the said registration certificate is being filed at a hopelessly late stage and its filing would prejudice the other side because it seems that a statement is made in the plaint that the firm is registered under the Indian

Partnership Act and that the suit is being filed on behalf of such registered firm. Ordinarily, therefore, there should be no difficulty in allowing the said certificate to be filed at later stage; provided the said filing of certificate would not prejudice the other side, if allowed to be filed at later stage.

4. Shri Purohit, the learned Counsel appearing on behalf of the applicants relied upon the aforesaid ruling of the Madhya Pradesh High Court. There a view was taken that sub-sections (1) and (2) of section 69 makes it compulsory that at the time of filing plaint it is the duty of the partnership firm or partners suing a third person to prove that at the time of filing of the suit the firm was duly registered. Further view expressed in para 6 of the judgment is that: "By reading provisions of section 69 it is quite clear that at the time of filing of suit on behalf of partnership firm, it is the duty of the partners filing the suit to mention the names of the persons who were partners of the firm at the time of filing of the suit. If the partner filing such a suit fails to do so, the bar indicated by section 69 of the Partnership Act would affect it."

5. This may be correct. However, it does not mean that there is compulsion to file the registration certificate at the time of filing of the suit or that there is any bar from filing the said certificate later on in the suit. With respect to the learned Judge, this Court finds it unable to agree with this view. The language of section 69(1) and (2) does not in any manner warrant the compulsory filing of the certificate of registration of firm at the time of filing of the suit nor is there anything to suggest that the certificate of registration of firm should be filed at the time of filing of suit and the same cannot be filed later on. The order passed on the aforesaid ruling, therefore, has to be set aside, and it is accordingly set aside.

6. The application at Exh. 29 would stand allowed and the documents shall be allowed to be filed. Civil Revision Application succeeds but without any order as to costs.

7. Revision allowed.