

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

124

RSA-1018-2025(O&M)
Date of decision: 19.03.2026**Sewa Singh****...Appellant(s)****Vs.****Firm M/s. Ramphal Singh Baljeet Singh****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. S.S. Momi, Advocate
Mr. Tarun Kumar Parashar, Advocate
for the appellant.

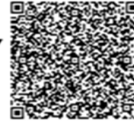
NIDHI GUPTA, J.
CM-2011-C-2026

Present application under Section 151 CPC has been filed, for pre-poning the date of hearing of the main appeal i.e. RSA-1018-2025 from 18.01.2027 to any other short date, in the interest of justice.

After going through the contents of the application, which is accompanied by affidavit of the applicant/appellant, the same is allowed subject to all just exceptions and main appeal is taken on board today itself.

MAIN CASE

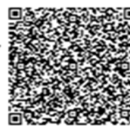
Present Second Appeal has been filed by the defendant against the concurrent judgments and decrees of the learned Courts below whereby suit filed by the plaintiff/respondent for recovery of Rs.3,89,084/- (i.e.



Rs.3,41,902/- as principal amount and Rs.47,182/- as interest thereon), has been partly allowed by both the Courts below.

2. It is inter alia submitted by learned counsel for the appellant that the learned Courts below were in error in decreeing the suit of the plaintiff as they failed to take into consideration the provision of Section 69(2) of the Indian Partnership Act, as per which it is stipulated that a suit by an unregistered partnership firm is not maintainable. Learned counsel submits that in the present case, the plaintiff/respondent being an unregistered firm in the year 2015 at the time of the impugned transactions between the parties, suit of the plaintiff was not maintainable. It is submitted that the disputed entries in respect of which the plaintiff has sought recovery from the appellant pertained to the year 2015 in respect of which Civil Suit was filed on 12.08.2016. Therefore, on the date of transactions in the year 2015, the plaintiff-firm was an unregistered entity. It is submitted that the Suit filed by the plaintiff was therefore barred by law and should not have been entertained by the trial Court in the first place.

3. Further submits that the Munim who had made the disputed entries has not been examined by the plaintiff to prove the same. It is submitted that the Ld. Trial Court erred in decreeing the suit despite the plaintiff's failure to examine Munim Satish, who allegedly recorded the bahi entry dated 26.05.2015. His testimony was crucial to proving the alleged transaction, yet he was deliberately withheld, warranting an adverse



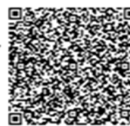
inference under Section 114(g) of the Indian Evidence Act, 1872. Mere production of account books does not establish liability under Section 34 of the Evidence Act, and in the absence of corroborative evidence, the alleged entry remains unproven. The judgment, based solely on an unverified and suspicious bahi entry, is legally unsustainable and liable to be set aside.

4. In support of his contentions, learned counsel relies upon judgment of Hon'ble Supreme Court in **Sunkari Tirumala Rao v. Penki Aruna Kumar, (SC) : Law Finder Doc ID # 2685747**; and judgment of this Court in **Ramanjot Singh v. State of Punjab, (Punjab And Haryana) : Law Finder Doc ID # 1223342**, wherein it is held that:-

"17. Under Section 69 of the Act for sharing of assets and liability of firm by partners no suit lies unless the firm is registered and unless partners are recorded in the register of firms. Even suit by unregistered firm is barred under Section 69(1) of the Act. It is mandatory for a partnership firm that it must comply with the mandatory requirement of Section 69(2) of the Act alongwith procedural requirement of Order 30 of the Code of Civil Procedure. The reference to words "right arising out of the contract" appearing in Section 69(2) of the Act; indicates that contract must be by the firm with a third party and it must be entered into in the course of business dealings. The constitution of firm, which is not registered and the names of the partners are not reflected in the register of firms and the rights of such partners will not flow as a member of specific firm when the entities are altogether different."



5. It is accordingly prayed that the impugned judgments and decrees be set aside.
6. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the record in detail. I find no merit in the submissions advanced on behalf of the appellant.
7. Perusal of record of the case shows that the plaintiff had filed the instant suit seeking recovery of Rs.3,89,084/- thereby stating that as on 31.03.2016, amount of Rs.3,41,902/- was outstanding against the appellant as principal amount, and Rs.47,182/- as interest thereon.
8. It is firstly to be noted that the record is replete with the contrary stands taken by the defendant/appellant from time to time. In Para 4 of the written statement, the defendant had mentioned that the plaintiff has manipulated and forged the bahi entries showing advancement of alleged amount; and has further stated that in actual fact, it is the plaintiff that owed Rs.5 lakh to the defendant as defendant had sold crops worth Rs.5 lakh to the plaintiff from the year 2010 to 2014; whereas in his Affidavit (Ex.DW1/A), the defendant has taken a different stance to the effect that Rajpal, son of the defendant had sold crops worth Rs.5 lakh to the plaintiff-firm from the year 2010-2015. No explanation is given by learned counsel for the appellant to explain this discrepancy.
9. Furthermore, in this regard only a bald statement has been made by the defendant that the amount in question has not been advanced to him



by the plaintiff and rather it is the plaintiff that owes money to the defendant. The said assertion was not proved by the defendant as he failed to even specify as to on which date, or in which year he or his son had sold crops to the plaintiff. Neither in the written statement nor in the Affidavits (DW1/A and DW2/A) it is mentioned that when and for how much amount and which crop was sold by the defendant or his son to the plaintiff firm.

10. The defendant could also not explain as to how his thumb impression came to be borne on the Books of Account of the plaintiff. Plea of the defendant that the disputed entries/ thumb impressions were result of fraud and forgery are discounted from the evidence of PW3 Sunil Verma, Fingerprint Expert examined by the plaintiff, who had proved the thumb impression of defendant "Q4" from Bahi entry dated 23.06.2015 for an amount of Rs.50,000/-. The defendant has been unable to give an explanation as to how the Account Book of the plaintiff bore the thumb impressions of the defendant. The said Books of Account has further been duly proved by the plaintiff from the evidence of PW1 and PW2/Ramphal partner of the plaintiff-firm, who had reiterated the version of the plaint and placed on record Account Books etc. He also affirmed that defendant had appended his thumb impressions on Account Books (Ex.PA to Ex.PW) i.e. entries indicating the advancement of loans. No evidence in rebuttal was led by the defendant by examining any Handwriting Expert. In the face of all of the above evidence, and the clear findings that the disputed entries were duly proven from the



evidence of PW1 and PW2, non-examination of the Munim would not in any manner be fatal to the case of the plaintiff.

11. Lastly, coming to the legal contention raised by the appellant that Suit was not maintainable under Section 69 of the Partnership Act as plaintiff firm was not registered. The said contention of the appellant is also misplaced as it is an admitted fact on record that the plaintiff firm was registered on 18.02.2016 as evident from copy of Register of Firms (Ex.PL); whereas Civil Suit was filed on 12.08.2016. Thus, at the time of filing of the Civil Suit, the plaintiff firm was a registered entity. Contention of the appellant that plaintiff firm was required to be registered on date of impugned transactions i.e. in the year 2015, is based on a patent mis-reading of the provision of Section 69(1) which reads as follows:-

“(1) No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm.(2) No suit to enforce a right arising from a contract shall be instituted in any court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.”



12. A bare reading of the above provision shows that it has nowhere been stipulated therein that the firm has to be registered on the date of the transaction. The provision only requires that Suit be filed by a registered firm. Admittedly on the date of filing of the Suit, plaintiff was a registered firm.

13. Reliance of the appellant on the afore-mentioned judgments is misplaced as vide the said judgments also, it has been held that on the date of filing of Suit, if firm is unregistered, Suit is barred. Neither of the above-said judgments nor Section 69(1), as relied upon by appellant/defendant lay down that registration of the firm is required on the date of transaction.

14. In view of the above, present Regular Second Appeal stands **dismissed.**

15. Pending application(s) if any also stand(s) disposed of.

19.03.2026
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No