



\$~98

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 26th May, 2025***
+ CM(M) 914/2025 & CM APPL. 29887/2025

M/S VANDANA ENTERPRISESPetitioner
Through: Ms. Anjeneya Mishra with Mr. Sahil
and Mr. Nidish Gupta, Advocates.

versus

M/S PADAMSHREE INDUSTRIES & ANRRespondent
Through: Appearance not given.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Learned counsel for respondent No. 1 has joined the proceedings through *video conferencing*.
2. The point raised in the present petition is very short and precise.
3. Petitioner has filed a suit for recovery and according to plaintiff, it even placed on record a copy of such *registration certificate* before the learned Trial Court.
4. However, when the case was at the stage of plaintiff's evidence, plaintiff neither submitted any list of witnesses nor examined any official from *Registrar of Firm* in order to substantiate that the firm in question was a registered one.
5. The case was, thereafter, fixed for defendant's evidence and it was at that stage of the case, the plaintiff moved an application seeking examination of the concerned Official from the *Registrar of Firm* to prove the abovesaid fact.



6. It is noticed that while framing issues, the learned Trial Court has also framed a specific issue to the effect *whether the suit was not maintainable as the plaintiff is not a registered partnership firm*. The onus, in this regard, has also been put on the petitioner/plaintiff.

7. No doubt, the plaintiff should have been careful and should have submitted list of witnesses and should have taken requisite steps to examine any such Official. However, that does not, automatically, mean that belated request in this regard is liable to be discarded right away.

8. The abovesaid aspect goes to the root of the matter and if eventually, the learned Trial Court comes to a conclusion that the firm was not the registered one, in terms of Section 69 of Indian Partnership Act, the suit can, even, invite dismissal order.

9. Viewed thus, the significance and importance of the abovesaid witness cannot be undermined.

10. Learned counsel for respondent No.1 submits that though the impugned order does not suffer any illegality or perversity, without prejudice to his rights and contentions, he would have no objection, if one opportunity in this regard is granted subject to certain conditions. He also states that since the plaintiff has already been cross-examined by him, he may also be given an option to recall the abovesaid witness, limited to the abovesaid aspect of registration.

11. Learned counsel for petitioner/plaintiff has no objection in this regard.

12. In view of the above, the present petition is disposed of with following directions:-

- a. Plaintiff is permitted to examine the concerned Official from “Registrar of Firm” for proving that the firm of the plaintiff is duly



registered one. However, in this regard, the plaintiff would be entitled to only one, *albeit*, effective opportunity.

b. For causing delay in the matter and for not examining the abovesaid witness in the first instance, the plaintiff is also burdened with cost of Rs. 15,000/- , which shall be paid to defendant No. 1 on the next date of hearing.

c. After such examination is over, if defendant No.1 seeks to recall plaintiff for the abovesaid limited purpose only, on application moved in the regard, learned Trial Court may allow such cross examination within the abovesaid confine and scope only.

13. The next date before the learned Trial Court is stated to be 29th instant and since the time is short, on the said date, appropriate application shall be moved by the plaintiff seeking issuance of summons to the abovesaid official and learned Trial Court would, accordingly, give a date for the purposes of such examination.

14. The petition stands disposed of in aforesaid terms.

15. Pending application also stands disposed of.

(MANOJ JAIN)
JUDGE

MAY 26, 2025/sw/SS