



\$~58

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 26th May, 2025***
+ CM(M) 980/2025 & CM APPL. 32382-32383/2025 & CM APPL.
32633/2025
M/S V.K. MEHRA AND SONSPetitioner
Through: Mr. Arvind Kumar with Ms. Sneha
Upadhay, Advocates.
versus
M/S STAR BANQUETSRespondent
Through: None.

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

1. Petitioner has filed a suit seeking recovery of a sum of Rs. 1,67, 733/- with interest.
2. The suit was instituted in the year 2017 and is already at the stage of final arguments.
3. Petitioner/plaintiff is aggrieved by order dated 08.01.2025 whereby its request to amend the plaint has been declined.
4. Learned counsel for petitioner submits that there was some technical defect and the name of the plaintiff was not appropriately described and moreover, if such technical defect is directed to be removed, no prejudice is going to be caused to the opposite side.
5. The argument, at the first blush, though, looked very convincing and attractive but fact remains that on a deeper evaluation of the matter, there is no substance in the present petition.
6. The abovesaid suit has been filed by *M/S V.K. Mehra and Sons*



claiming itself to be a partnership firm. Fact remains that such firm is an unregistered firm and , therefore, neither it can sue nor can be sued in terms of Section 69 of Indian Partnership Act, 1932.

7. Interestingly, when the written statement was filed by the defendant, it took a specific objection in this regard in the written statement but even such objection did not wake up the plaintiff.

8. The issues were framed in the year 2018 and even during the cross examination of the plaintiff, the abovesaid objection was reiterated by the defendant by putting question in this regard to the witness of the plaintiff but despite that, for the reasons best known to the plaintiff, it did not move any application seeking amendment in the plaint.

9. It is only when the learned Trial Court has started hearing final arguments, the plaintiff realized its mistake and moved an application admitting therein that the plaintiff firm was not a registered firm and, therefore, it was incompetent to sue. It was in the abovesaid backdrop that it sought permission to amend the title by showing all its partners as the plaintiffs.

10. Evidently, the plaintiff should have been careful, in the first instance.

11. When the objection in this regard was taken in the written statement, he should have amended the suit. Plaintiff knows best about its own constitution and should have filed any such application at the threshold.

12. During course of the arguments, learned counsel for petitioner, when requested, showed copies of the pleadings. The plaint has been filed by the aforesaid firm through its partner and in the written statement, the defendant, categorically, claimed that such firm was not a registered firm and, therefore, hit by Section 69 of Indian Partnership Act. It also, at the same time,



2025:DHC:4469



contended in written statement that M/S V.K. Mehra and Sons was rather a proprietorship firm.

13. Be that as it may, the petitioner/plaintiff should have come up with the correct and appropriate facts at the time of institution of the suit and since despite there being specific objection taken in this regard, it took the things for granted, this Court cannot come to its rescue when the case has already reached the stage of final arguments, after its long journey of seven years.

14. The petition stands dismissed in aforesaid terms.

15. Pending applications also stand disposed of.

(MANOJ JAIN)
JUDGE

MAY 26, 2025/sw/SS