



2026:DHC:1440-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RFA(COMM) 527/2024

M/S NORTH INDIA EXPORTSAppellant

Through: Mr. Shalabh Gupta and Ms.
Prachi Gupta, Advocates.

versus

M/S GRAPEVINERespondent

Through: Mr. Din Bandhu Chaudhary and
Mr. Surya Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

16.02.2026

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C. HARI SHANKAR, J.

1. This appeal is directed against order dated 6 January 2024, whereby CS (Comm) 209/2022, filed by the appellant, has been disposed of by rejecting the plaint in terms of Order VII Rule 11 of the Code of Civil Procedure, 1908¹, on an application under that provision having been filed by the respondent/defendant.

2. Though various objections have been raised by the respondent under Order VII Rule 11 CPC, the only ground on which the learned Commercial Court has rejected the plaint is contained in paras 12 and 13 of the impugned order. The learned Commercial Court has

¹ "CPC" hereinafter



proceeded on the ground that the suit was filed in the name of a proprietorship firm instead of the name of the sole proprietor and has relied upon a judgment of this Court in *Svapn Constructions v. IDPL Employees Cooperative Group Housing Society*² to reject the plaint on that ground.

3. It is well settled that there is no legal distinction between a proprietor and a proprietorship firm³. Besides, at the very highest, the learned Commercial Court could have directed the appellant to also mention the name of the proprietor in the cause title.

4. We are of the view that the learned Commercial Court was completely unjustified in non-suiting the appellant, in a commercial matter, on such a ground.

5. Insofar as the decision in *Svapn Construction* is concerned, Mr. Shalabh Gupta, learned Counsel for the appellant points out that this decision stands reversed by the Supreme Court *vide* order dated 15 April 2010 in Civil Appeal No. 3336/2007⁴. The said order reads thus:

“This Appeal has been filed against the impugned order of the High Court of Delhi dated 20th December, 2005.

The High Court has rejected the petition under Section 11(6) of the Arbitration & Conciliation Act, 1996 solely on the ground that the petition was filed in the name of the proprietorship firm through its sole proprietor Shri A.K. Khanna and it was not filed in the name of Shri A.K. Khanna himself.

We are of the opinion that the High Court has taken a hyper-

² 127 (2006) DLT 80

³ Dogiparthi Venkata Satish v. Pilla Durga Prasad, 2025 SCC OnLine SC 1825

⁴ M/S. Svapn Construction v. IDPL Empl. Coop. G.H. Soc. Ltd. & Ors



technical view of the matter. The law has to do substantial justice and not to go by these hyper-technicalities. A.K. Khanna has been named in the cause title, and hence the High Court should not have dismissed the petition on the ground given by it.

Hence, we allow this appeal, set aside the impugned order of the High Court and remit the matter to decide it afresh on merits, in accordance with law, expeditiously.

No costs.”

6. Learned Counsel for the respondent is not able to dispute the fact that the decision in *Svapn Construction* has been reversed by the Supreme Court.
7. There is no other ground on which the learned Commercial Court has proceeded.
8. The impugned order is quashed and set aside. The application of the respondent under Order VII Rule 11 of the CPC stands dismissed.
9. CS (Comm) 209/2022 stands restored to its original number before the learned Commercial Court for consideration to proceed from the stage it stood when the impugned order was passed.
10. Let the parties appear before the learned Commercial Court on 9 March 2026.
11. We make it clear that we have expressed no opinion on the merits of the dispute between the parties.



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12. The appeal is allowed in the aforesaid terms.

C.HARI SHANKAR, J

OM PRAKASH SHUKLA, J

FEBRUARY 16, 2026/pa