

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

RP.No. 316 of 2015 IN RSA.111/2013 (E)

AGAINST THE JUDGMENT IN RSA 111/2013 of HIGH COURT OF KERALA
DATED 11-07-2014

REVIEW PETITIONER/APPELLANT/APPELLANT/1ST DEFENDANT:

T.R KRISHNAN,
AGED 74 YEARS, S/O.S.V.V.RAMASWAMI IYER,
PUTHAN NADAKKAVIL, THRISSUR VILLAGE AND TALUK.

BY ADVS.SRI.T.K.VIPINDAS
SMT.P.K.PRIYA

RESPONDENTS/RESPONDENTS/RESPONDENTS/PLAINTIFF & 2ND
DEFENDANT:

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1. T.V RAMASWAMI,
AGED 48 YEARS, S/O.LATE T.R.VENKITESWARAN
PUTHAN NADAKKAVIL, THRISSUR VILLAGE AND TALUK-686001.
 2. RAJAM VENKETESHWARAN,
W/O.LATE T.R.VENKITESWARAN, PUTHAN NADAKKAVIL,
THRISSUR VILLAGE AND TALUK-686 001.

BY ADV. SRI.T.KRISHNANUNNI (SENIOR ADVOCATE)
BY ADVS. SRI.VINOD RAVINDRANATH
SMT.MEENA.A.
SRI.K.C.KIRAN
SRI.M.DEVESH

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
18-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

**Review Petition No.316 OF 2015 IN
Regular Second Appeal No.111 OF 2013**

Dated this the 18th day of September, 2015.

O R D E R

The review is sought on the ground that this Court omitted to note the two vital aspects in the case when the matter was argued before this Court. It is contended that this Court omitted to note that the firm was never reconstituted as alleged by the 1st respondent before this Court and therefore the suit could not have been maintained. The other ground taken is that the existence of the firm itself is not proved and the view taken by this Court under Section 69 of Partnership Act is incorrect.

2. At the time of hearing of the review petition, learned counsel appearing for the review petitioner pointed out that after the death of T.R. Venkiteswaran, the firm came to an end and that aspect has been lost sight of by this Court.

3. There is a crucial factor which has considerable importance in the issue involved in the suit. The definite case was that by virtue of Ext.A8 notice, even prior to the death of

T.R. Venkiteswaran, firm stood dissolved and that was never reconstituted.

4. The other contention was that Section 69 of Partnership Act is a bar.

5. The contention that the firm stood dissolved on the death of T.R. Venkiteswaran was found against. That is essentially a question on fact. The firm continued and the contention based on Ext.X1 was negated on the ground that except a disinclination of the partner conveyed to DW2 who was the auditor of the firm, and not a partner, who was examined as a witness, he never had a case that he had intimated the other partners about the desire to dissolve the firm. Under those circumstances, this Court had held that there is no proof for dissolution of the firm and granted the decree.

6. Learned counsel appearing for the review petitioner placed reliance on the decisions in **Mohammad Laiquiddin and another** vs. **Kamala Devi Misra (dead) by Lrs. and others** (2010 KHC 6089), **Parthasarathy Naidu S.K and another** vs. **Rama Naidu K. and others** (2001 KHC 3649), **Commissioner**

of Income Tax, W.B vs. Juggilal Kamalapat (1967 KHC 492) and in **Yohannan George vs. Geevarghese Pappan** (1962 KHC 95)

7. All the above decisions deal with Section 4 of Partnership Act which says that partnership is a consequence of agreement between the parties. One can have no quarrel with the above proposition. The decisions have no application to the facts of the case. As already stated, it was never the case that consequent on the death of T.R. Venkiteswaran, the partnership had come to an end. It would appear that there was a contention taken on the basis of Ext.X1 that there was a dissolution which has been found against.

8. This Court finds no error apparent on the face of record in disposing of the appeal.

This review petition is without merits and it is accordingly dismissed.

Sd/-

**P.BHAVADASAN
JUDGE**

smp