

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.1342 of 2015

ORDER:

Heard Smt.Manchikalapati Renuka, learned counsel for the petitioners and Sri K.Chaitanya, learned counsel for 2nd respondent.

2. This Revision Petition is filed under Article 227 of the Constitution of India challenging the Order dt.24-11-2014 in I.A.No.820 of 2013 in O.S.No.510 of 2010 of the Additional Senior Civil Judge, Tirupathi.

3. The 1st respondent firm through its Managing Partner filed the suit against respondent Nos.2 to 5 for recovery of money. The 1st respondent, according to the plaintiff, is a partnership firm registered with the Registrar of Firms. Written Statement was filed by the respondents opposing the suit claim. Issues were framed. Trial commenced. The Managing Partner of the 1st respondent/plaintiff firm examined himself in chief as P.W.1. Thereafter, he did not appear in the Court allegedly on account of illness.

4. The petitioners herein claimed to be partners in the 1st respondent firm. They alleged that the suit was filed by the Managing Partner and he did not add the petitioners, who are other partners, as necessary

parties in the suit; that they are having equal rights in the firm; and therefore they should be impleaded since they are necessary parties to the firm.

5. This was opposed by the respondent Nos.2 to 4, who contended that the petition for impleading parties is different from amendment of cause title and they cannot be impleaded at the stage after the evidence affidavit of the Managing Partner of 1st respondent as P.W.1 was filed. They also contended that there is unexplained delay in filing this application and therefore it should be rejected.

6. By order dt.24-11-2014, the Court below rejected the said application. It held that the suit was filed by the Managing Partner of 1st respondent firm and the petitioners are partners therein. It held that after the trial has commenced, this application has been filed and no material is filed to show that 1st respondent firm is reconstituted or that there was any adverse interest to the person who filed the suit. It also observed that if P.W.1, Managing Partner of 1st respondent firm had fallen ill and unable to come to the Court, he can still be examined through a Commissioner.

7. Challenging the same, this Civil Revision Petition is filed.

8. Learned counsel for the petitioners

contended that the order passed by the Court below is incorrect and that the Court below ought to have impleaded the petitioners as plaintiff Nos.2 to 4 in the suit.

9. Order 30 CPC states that any two or more persons claiming to be partners and carrying on business in India may sue or be sued in the nature of the firm of which such persons were partners at the time of accruing of the cause of action, and it was open to any party to a suit in such a case to apply to the Court for a statement of the names and addresses of the persons who were such partners.

10. It is settled law that a firm has no legal existence in law and it is a mere abbreviated name for the partners of which it consists, and is not a legal entity as a corporation. (**Purushotham Umidbhai & Co. Vs. Manilal and Sons**^[1]).

11. The effect of using the name of the firm is simply to bring all the partners before the Court and the procedure indicated in this rule is adopted only as a convenient method for denoting the persons who constitute the firm at the time of the accrual of the cause of action. Therefore, the very fact that the firm is the plaintiff implies that all the names of the partners are already before the Court, even without their names being separately shown in the cause title.

12. Therefore there was no necessity for the petitioners to file an application under Order I Rule 10 CPC to implead them as parties to the suit.

13. Since the very application I.A.No.820 of 2013 is misconceived, the Civil Revision Petition is disposed of with a direction to the trial Court to take note of the above legal position and treat as if the petitioners herein are already before the Court since the suit is brought in the name of the firm. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-07-2015

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[\[1\]](#) AIR 1961 S.C. 325