

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.512 of 2016

Date of Decision.27.01.2016

Dharam Pal and others

.....Petitioners

Vs.

Ramesh Kumar and others

.....Respondent

Present: Mr. Shailendra Jain, Senior Advocate with
Ms. Mannu Chaudhary, Advocate and
Mr. Vikrant Rana, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The revision petition is at the instance of the defendant in suit for dissolution of partnership said to have been made between the plaintiffs and one defendant through document dated 18.01.2009. The petitioner is the purchaser from one of the partners Sajjan Singh and Sajjan Singh and the petitioner have filed a written statement contending that the property which was sold was not a partnership asset and it belonged exclusively to Sajjan Singh. There are other contentions also raised by Sajjan Singh himself denying the existence of partnership and the entitlement of the plaintiffs to seek for relief.

2. One Vinod Kumar who claimed himself to be a partner since 18.01.2006 along with others under oral arrangement was reported to have received some consideration in the year 2008 and walked out of the partnership. A further partnership deed dated 12.01.2008 about

which we have made reference above came to be executed when Vinod Kumar signed as a witness. Now the application had been filed by Vinod Kumar and one Shamsheer Singh claiming that they are also entitled to the partnership and they had their own share along with Sajjan Singh of particular extents mentioned there in the application. The other plaintiffs who have sought for dissolution of partnership have not resisted any objection for the impleadment of these two persons as co-plaintiffs and the objection is come only from Sajjan Singh and purchaser from Sajjan Singh.

3. The Court while allowing the application has found that persons who are interested in partnership must be joined as parties and the objection cannot be allowed to survive. The learned Senior Counsel appearing on behalf of the petitioner contends that there is not even an averment that Sajjan Singh and Shamsheer Singh were partners in the partnership deed dated 18.01.2009. Indeed, there is no difficulty in seeing that Vinod and Shamsheer were themselves not treated as partners in the document and their own rights cannot be tested only on the basis of the recitals of the document dated 18.01.2009. If the third parties were trying to make out a case of their interest in the partnership as obtaining through an arrangement that one of the partners namely Sajjan Singh, and the other persons who are admittedly partners under the partnership deed and who have filed the suit have no objection to the said third parties to join along with them to prosecute the case, none of the defendants could have any objection. It is only appropriate that the contentions raised by the defendant that the third parties had really no interest in the partnership to be tested at the trial

and it need not be tested at this stage. The case must go on the assertions made by parties and for which the existing plaintiffs have no objection. I will not allow an objection to be brought by the defendant for an impleadment in such case and I will treat the observations made by the Court below to be understood as not pronouncing on any of the merits of the contentions that they have a right in the partnership. That will be established in the course of trial, for in the very nature of things, it is not possible for us to see whether they had such an interest. An oral arrangement can be proved only through evidence in Court and that cannot be pre-judged at the time of impleadment.

4. The order already passed is sustained and the revision petition is dismissed. The defendant will be at liberty to take all their objections about the status of persons who have been impleaded as parties and their contention that the parties are not partners and they are not entitled to secure any reliefs as pleaded by them by bringing an additional written statemet in the manner contemplated under Order 8 Rule 9 CPC. Additional written statement, needless to state will be confined to the averments brought by the parties impleaded and the circumstances stated for their impleadment.

(K. KANNAN)
JUDGE

January 27, 2016
Pankaj*