

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****FA No. 341 of 2017**

(Arising out of judgment/order dated 06.05.2017 in Civil Suit No.28-A/2008 passed by Additional District Judge (FTC), Rajnandgaon

1. Shri Shankar Lal Varshneya S/o Late Sarbati Lal Varshneya, Aged About 72 Years Present R/o Lakholi Naka, Rajnandgaon, District Rajnandgaon, Chhattisgarh
2. Shri Anil Kumar Varshneya S/o Shri Shankar Lal Varshneya, Aged About 50 Years, Present R/o Lakholi Naka, Rajnandgaon, District Rajnandgaon, Chhattisgarh(Defendants)

---- Petitioner**Versus**

1. Sunil Kumar S/o Late Shri Om Prakash Varshneya, Aged About 57 Years
2. Hari Kumar S/o Late Shri Om Prakash Varshneya, Aged About 51 Years
3. Shyam Kumar S/o Late Shri Om Prakash Varshneya, Aged About 55 Years
4. Ravi Kumar S/o Late Shri Om Prakash Varshneya, Aged About 49 Years
5. Smt. Nirmala Devi W/o Dinesh Kumar Gupta,
6. Smt. Usha Varshneya W/o Shri Hariram Gupta, Aged About 59 Years

Respondents 1 to 6 are R/o 8/165, Mitra Nagar, Aligarh (Uttar Pradesh) 202001(Plaintiffs)

7. Nand Kumar Varshneya
8. Rajkumar Varshneya
9. Vijay Kumar Varshneya
10. Praveen Kumar Varshneya

11. Ashok Kumar Varshneya

Respondents 7 to 11 all are S/o Late Pannalal Varshneya, R/o 5828, Jilar Road, Aligarh (U.P.)(Defendants)

---- Respondent

For Appellant	Mr. Satish Verma, Advocate
For Respondent No.10	Mr. Ashish Surana, Advocate on Caveat

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

26/10/2017

1. Heard learned counsel for the parties on admission.
2. This appeal has been preferred by defendants 1 & 2 challenging the judgment and decree passed by the Additional District Judge (FTC), Rajnandgaon, dismissing the plaintiffs' suit for dissolution of partnership firm and rendition of accounts.
3. The suit was preferred by the original plaintiff Om Prakash Varshneya, now represented by his legal representatives respondents 1 to 6, against the defendants Shankar Lal Varshneya, Anil Kumar Varshneya, Sunil Kumar Varshneya, Nand Kumar Varshneya, Rajkumar Varshneya, Vijay Kumar Varshneya, Praveen Kumar Varshneya and Ashok Kumar Varshneya.
4. During pendency of the suit, the name of defendant No.3 Sunil Kumar Varshneya was deleted, because, he being the son of original plaintiff late Om Prakash Varshneya, was subsequently arrayed as legal representative of the deceased – plaintiff.

5. During trial, the Court framed issue No.1 as to who are the partners of firm – Omprakash Pannalal & Company and the extent of their share in the partnership firm.
6. While dismissing the suit preferred by the plaintiffs, the trial Court recorded a finding on issue No.01 that plaintiff late Om Prakash Varshney and defendant No.1 Shankar Lal Varshney have 30% share each in the partnership firm, whereas, Anil Kumar, who happens to be the son of Shanker Lal Varshney (defendant No.1) and Sunil Kumar Varshney S/o Om Prakash Varshney have share to the extent of 20% each. Thus, there is no finding in favour of defendants 4 to 8 that they are either partners or have any share in their partnership firm.
7. When specifically queried as to how the appellants/defendants 1 & 2 are aggrieved by the impugned decree, learned counsel for the appellants would submit that defendants 4 to 8 being not concerned with the partnership firm in any manner, they should not have been arrayed as defendants, therefore, the present appeal has been filed.
8. It appears, the submission of learned counsel for the appellants is misplaced, if not misconceived, inasmuch as, for maintaining a first appeal the party appealing from the decree must be “a person aggrieved” from the impugned decree. Merely because, some additional parties were added in the suit, an appeal under Section 96 of CPC would not be maintainable, if no decree has been passed against the party appealing from the decree.

9. There is no cause of action for the appellants to prefer this appeal as the appellants are not aggrieved by the impugned decree. Therefore, the present first appeal is not maintainable.

10. Accordingly, the appeal fails and is hereby dismissed at the admission stage itself.

Sd/-

Judge

(Prashant Kumar Mishra)

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