

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**RSA-2458-2018(O&M)
Date of Decision: 21.11.2023**

Pardeep Kumar

...Appellant

Versus

Labh Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanjeev Manrai, Senior Advocate with
Ms. Neha, Advocate for the appellant.

HARKESH MANUJA, J. (oral)

1. By way of present appeal, challenge has been made to the judgments and decrees dated 31.01.2013 and 21.07.2017 passed by the Courts below, whereby the suit for dissolution of firm i.e. respondent No.2-defendant No.1 (hereinafter the parties shall be referred as per their status given in the plaint), constituted vide partnership deed dated 27.11.2001 and also for settlement/rendition of accounts thereof, stands decreed, besides passing the restraint order against defendant No.2 from removing the assets of defendant No.1.

2. Briefly stating, claiming themselves to be partners of a partnership firm constituted vide partnership deed dated 27.11.2001, the plaintiff-respondent Nos.1 and 3, filed a suit with following prayer:

“(A) Suit for dissolution of firm defendant no.1 constituted vide partnership deed dt.27.11.2001 and for settlement/rendition of accounts after discharging the liabilities of the firm defendant no.1 and for distribution of the remaining amount and assets of the firm between

the plaintiffs and defendant no.2 according the shares mentioned in the partnership deed dt.27.11.2001; AND

(B) *Suit for permanent prohibitory injunction restraining the defendants no.2 from removing or using any assets of the firm defendant no.1 and further restraining defendant no.2 from carrying on a business of firm defendant no.1 until all the affairs of the firm defendant no.1 have been completely wound up or any other relief.”.*

3. Upon notice, the suit was opposed at the instance of appellant-defendant No.2 while submitting that the firm stood dissolved vide dissolution deed dated 31.03.2005, which though signed by plaintiff No.1/respondent No.3, but was never signed by plaintiff No.2/respondent No.1, however, having admitted the dissolution deed. The trial Court vide judgment and decree dated 31.01.2013 decreed the suit filed at the instance of plaintiffs, while ignoring dissolution deed dated 31.03.2005 on the ground that the same was not signed by all the partners, especially plaintiff No.2.

4. Aggrieved thereof, appellant-defendant No.2 filed first appeal, which came to be dismissed vide judgment and decree dated 21.07.2017 passed by the First Appellate Court.

5. Impugning the aforementioned judgments and decrees passed by the Courts below, learned Senior Counsel for the appellant submits that the dissolution deed dated 31.03.2005 (Ex. D4) was entered into between the parties and the terms thereof were even accepted and thus, the suit filed at the instance of plaintiff-respondent Nos.1 and 3 was liable to be dismissed. He further submits that plaintiff

No.1 was having no cause of action for filing the suit, he having signed the dissolution deed dated 31.03.2005.

6. I have heard the learned counsel for the appellant and gone through the paper-book. I am unable to find substance in the submission made on behalf of appellant-defendant No.2.

7. There was no dispute between the parties as regards the existence of the partnership firm consisting of plaintiffs as well as defendant No.2, be its partners, in terms of partnership deed dated 27.11.2001. Once, the dissolution deed dated 31.03.2005, as set up by defendant No.2, was never signed by all the partners, especially in the present case by plaintiff No.2, thus, the document dated 31.03.2005 did not result into dissolution of partnership firm created vide partnership deed dated 27.11.2001. Mere signatures of plaintiff No.1 over the document dated 31.03.2005 could not be termed to be resulting into acceptance of the dissolution of firm by plaintiff No.2, who never signed the same.

8. Resultantly finding no merits in the present appeal, there being no illegality and perversity with findings recorded by the Courts below in the judgments dated 31.01.2013 and 21.07.2017, the same is hereby dismissed.

9. Pending application(s), if any, shall stand(s) disposed off.

(HARKESH MANUJA)
JUDGE

21.11.2023
Mangal Singh

Whether Speaking / Reasoned : Yes No
Whether Reportable : Yes No