
(1927) 11 AHC CK 0024
In the Allahabad High Court

Bajnath and Another

APPELLANT

Vs

Chhote Lal and Another

RESPONDENT

Date of Decision : 18-11-1927

Acts Referred:

Citation : (1927) 11 AHC CK 0024

Judgement

1. This case has been very ably argued by Dr. Kailash Nath Katju, but notwithstanding his able arguments we remained unconvinced.

2. The suit of the plaintiff-appellants for dissolution of partnership and for rendition of accounts has been dismissed by the Courts below on the ground that the partnership, the dissolution of which was prayed for by the plaintiffs, had been dissolved more than three years prior to the institution of the suit giving rise to the present appeal, and as such the suit was time barred. The trial Court after pointing out that

no partnership business was done,

after 25th January 1920, on which date the servants of the firm were dismissed, and the rent of the shops in which the partnership business was carried on was paid, and accounts were finally closed, and that on 20th March 1920

every thing was finally disposed of, and the pressing machine had also been removed,

and after pointing out the other facts that led to the conclusion that the partners had decided to discontinue the business of partnership and to terminate the partnership, came to the conclusion that the partnership in question was dissolved on or about the end of January 1920, and as the present suit was filed in April 1923, the suit was time barred.

3. The lower appellate Court has affirmed the finding of the trial Court. The lower appellate Court has observed that the partners

knew that there was loss in the dealings in 1920 and it was, therefore, natural

that they thought it prudent to stop the business. In my opinion this amounts to a dissolution of the partnership.

4. It further pointed out that the trial Court had fully discussed the evidence and then summarised its conclusion as follows:

(1) The trial Court has rightly held that the partnership was dissolved in Magh of Sambat 1976

corresponding to January 1920.

5. In second appeal before us it is argued that the mere fact that the business of the firm was suspended does not necessarily lead to the conclusion that the partnership was dissolved, and it is contended that inasmuch as the price of certain of the commodities purchased by the firm that were sent to Calcutta for sale was not received till about the month of August 1923, it could not be said that the partnership was dissolved before August 1920. In support of this contention reliance has been placed by the learned Counsel on the case of AIR 1927 70 (Privy Council) and on the decision of Chunni Lal and Others Vs. Sheo Charan Lal Lalman and Others. It is certainly true that the mere suspension of business of partnership does not necessarily lead to the conclusion that there has been a dissolution of that partnership, but the cessation of the business coupled with the other circumstances may legitimately lead to the inference that the partnership had been dissolved. In this case the lower appellate Court after pointing out that the business was closed has adopted the reasons given by the trial Court for recording the finding that the partnership in question had been dissolved in January 1920. The decision in the unreported case referred to above turns on the peculiar terms of the agreement of partnership evidenced by the documents to which reference was made by the learned Judges in the course of their judgments. In the Privy Council decision relied upon by the learned Counsel it was not laid down by their Lordships as a general proposition of universal application that a partnership cannot be deemed to have been dissolved till all its outstandings have been realised. Having regard to the nature of the particular partnership, which formed the subject-matter of consideration in that case and having regard to the other facts pointed out by their Lordships in the course of their judgment, their Lordships came to the conclusion that the finding of the High Court in that case, that the partnership was not dissolved till all the outstandings belonging to the partnership had been realised, was correct.

6. In our judgment the case before us is not covered by either of the decisions relied upon by the learned Counsel for the appellants and is concluded by the finding of fact recorded by the lower appellate Court. We dismiss the appeal with costs.