
(2013) 09 P&H CK 0343

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 7505 of 2012 (O and M)

Inderjit Kaur

APPELLANT

Vs

Ranbir Singh

RESPONDENT

Date of Decision : 17-09-2013

Acts Referred:

Citation : (2014) 1 PLR 317

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Judgement

K. Kannan, J.—The case was brought for hearing on 20.02.2013 and at request, it was adjourned finally to 03.05.2013. Today, there is a written request for adjournment. I decline the plea and have proceeded to examine the case and pass the following order. The revision is filed at the instance of the plaintiff, who filed a petition under Order 21 Rule 11 CPC for realizing an amount of Rs. 1,44,000/- as per the decree alleged to have been passed in her favour. The Court rejected the petition on a finding that there existed no decree to be executed and the petition was not maintainable. The petitioner in the grounds urged that in an earlier round of litigation where the petitioner was claiming that the court had wrongly dismissed the petition, this Court in Civil Revision No. 6790 of 2011 allowed for proceedings to be initiated under Order 21 Rule 32 read with Section 36 CPC. This, according to the petitioner, was a recognition of this Court of the petitioner's entitlement to recover the amount.

2. I have seen through the decree said to have been passed on 12.09.2008. The suit was for a rendition of account in relation to firm M/s. Hind Furniture, Jagadhri to restrain the defendant from removing and alienating by way of sale, mortgage lease etc. The Court proceeded to pass an order on an alleged statement made by the defendant that he will pay an amount of Rs. 6,000/- to the plaintiff as partner of M/s. Hind Furniture and that he will be bound by the statement. Recording the statement, the Court held that the plaintiff did not want any further relief and the suit was dismissed. If the disposal of the suit was

a dismissal by an undertaking given by the defendant, then there was no decree to be granted. The prior permission given by this Court by yet another Judge on 14.02.2012 in CR No. 6790 of 2011 with due respect ought to be read down to conform to what is possible in law. If the defendant was admitting himself to be liable to pay Rs. 6,000/- and there was a breach, unless the undertaking given had been made part of the decree, it cannot be executed. A suit for an accounting in an existing partnership would arise only if there is a dissolution of partnership. An undertaking given by the defendant to pay must only be taken as giving a fresh cause of action for the plaintiff to institute a suit for recovery of money, if so advised. It leaves no residual right for a person to apply for execution. The remedy pursued is wholly untenable in law. The appropriate line of action can only be for dissolution of partnership of accounting. A partner, who continues as such has no right to demand accounting. The Executing Court cannot issue a notice under Order 21 Rule 11 CPC unless there was a valid enforceable decree. I found there exists no decree to be executed and the order passed was, therefore, perfectly justified. I find no reason to interfere with the same. The civil revision is dismissed.