
(1939) 09 AHC CK 0005
In the Allahabad High Court
Case No : Second Appeal No. 524 of 1937

Mahadeo Prasad and Others	Vs	APPELLANT
Firm Kunji Lal Vidya Ram (Plaintiff) and Another		RESPONDENT

Date of Decision : 28-09-1939

Acts Referred:

Citation : (1939) 09 AHC CK 0005

Hon'ble Judges : Allsop, J

Bench : Single Bench

Advocate : S.P. Sinha and Shambhu Prasad, for the Appellant; S.N. Seth, for the Respondent

Judgement

Allsop, J.—The Plaintiffs in the suit which has given rise to this appeal were a firm Kunji Lal Vidya Ram. The Defendants were a firm Mahdeo Prasad Vaid Nath Prasad, one of its partners, Parshotam Lal and one Sewa Lal, son of Mahadeo Prasad another partner. Mahadeo Prasad and Vaid Nath Prasad were themselves partners in the firm. The suit was one for the recovery of sum of money which was decreed in part. The Plaintiffs in the trial Court had asked that notices of the suit as against the firm should be served upon Parshotam Lal. Some of the partners were dissatisfied with the decision and appealed to the District Judge. The appeal was filed through a Vakil or a Pleader in the name of Messrs. Mahadeo Prasad Vaid Nath Prasad, sons of Parshotam Das and Sewa Lal. The Respondents were the Plaintiffs, Kunji Lal Vidya Ram and Parshotam Lal, who was apparently not willing to join in the appeal. The learned Judge round that the decree should be reduced by a sum of Rs. 156-8-0 but he refused to pass any order in favour of the Appellants because he considered that the appeal was not properly filed on behalf of the firm. His impression was that Mahadeo Prasad and Vaid Nath Prasad were purporting to act in their individual capacity and not as members of the firm and he pointed out that Vaid Nath Prasad had not personally signed the vakalatnama. It appears to me that this argument overlooks the fact that a firm is not a legal entity. The result of the decree

against the firm was that the decree-holders were entitled to recover the amount jointly or severally from the individuals, Mahadeo Prasad, Vaid Nath Prasad and Parshotam, who were the members of the firm. As between themselves any of these persons who paid up the amount decreed might have charged it against the partnership accounts. In these circumstances I do not see why any member of the firm should not appeal against the decree as against the firm. Each member was personally liable either to pay the amount himself or to pay his share of it if it was paid by some other member. As a matter of fact the vakalatnama was signed by Mahadeo Prasad on behalf of Mahadeo Prasad Vaid Nath Prasad and above no doubt that the real intention was to appeal against the decree on behalf of the firm. It does not, however, seem to me to matter a great deal because any individual member can object to a decree against the firm when he is in his personal capacity liable to pay the amount decreed. I hold, therefore, that the sum of Rs. 156-8-0 must be reduced from the amount of the decree.

2. Learned Counsel for the Respondents does not question the finding of the learned District Judge because it is one of fact. * * * *

3. I reduce the decree by a (sic) Rs. 156-8-0 Interests will be reduced (sic) The parties will get there proportionate costs in this Court. The order for costs in the Court below will stand, but as the order is for proportionate costs, the amount will have to be recalculated.