

**(1926) 04 MAD CK 0045**  
**In the Madras High Court**

T. Enaytulla Sahib

APPELLANT

Vs

J. N. Roy and Co.

RESPONDENT

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**Date of Decision :** 22-04-1926

**Acts Referred:**

**Citation :** AIR 1927 Mad 661 : (1927) 25 LW 765

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**Judgement**

1. This is a suit by the plaintiff to recover Rs. 2,550 with costs and further interest claimed in respect of wool sold to the defendant's firm, J. N. Roy & Co. The case of the plaintiff is that one J. N. Roy carried on business as a partner of the firm. Summons was served on the firm and also on J. N. Roy personally. The firm is ex parte. J. N. Roy filed a written statement stating that he ceased to be a partner of the firm on 13th July 1921, that he was not a partner of the firm at the date of the transaction mentioned in the plaint, that he knew nothing about it and that he is not liable.

2. The following issues were settled:

1. Is J. N. Roy not liable in the suit contract, for the reasons stated in the written statement?

2. To what relief is the plaintiff entitled?

3. So far as the claim against the firm is concerned it is clearly proved by the evidence of the plaintiff that the wool was sent to the defendant firm at the request of the defendants, that Rs. 1,000 was paid by the defendant company, that they promised to pay the balance but have not paid. Interest is claimed from the date of plaint and the plaintiff is clearly entitled to interest.

4. As regards J. N. Roy individually he admits that he was a partner of the firm. He says that the partnership was dissolved in 1921, that he gave notice of the dissolution in the "Calcutta Exchange Gazette." It is not alleged that he gave any notice to the plaintiff or did anything beyond publishing in the "Calcutta Exchange Gazette", to put the plaintiff on notice of dissolution. The "Gazette" is published in Calcutta and there is no evidence that the plaintiff read a copy of

that paper in which this dissolution was announced. The plaintiff denies that he knew anything about the dissolution and says that he would not have sent the goods had he known that J. N. Roy, who is the person that came to Madras and arranged the transaction, was no longer a partner. The law is clear that in cases of withdrawal of a partner from the firm or in cases of dissolution the constituents who have dealings with the firm should have notice of the fact. In the case of Mahadeva Aiyar v. Ramakrishna Reddiar A. I. R. 1926 Mad. 114 the law has been discussed" by Spencer, J., and Odgers, J., and I think the law is clear that it is the duty of a person who withdraws to give notice of such withdrawal if he seeks to be relieved from the obligations entered into by the firm with other persons in ignorance of their partners. It is impossible to hold that publication in the "Calcutta Exchange Gazette" is sufficient notice under the Contract Act to affect merchants in Madras who deal with the firm. Even in Calcutta the "Exchange Gazette" has been held not to be such a paper that a publication in which would be sufficient notice. I need only refer to Chundee Churn Dutt v. Eduljee Cowasjee Bijnee [1882] 8 Cal. 678 As J. N. Roy does not state that he gave any notice to the plaintiff of the dissolution and as his plea is only that he had published in Calcutta, I find it difficult to see how he can be exonerated even assuming as a fact that he left the firm. I hold that J. N. Roy is liable in respect of the amount decreed to the plaintiff.

5. There will be a decree for Rs. 3,310 with costs and interest at 6 per cent per annum from this date to payment, payable by Messrs J. N. Roy & Co., and by J. N. Roy personally.