[2025] 2 S.C.R. 1396 : 2025 INSC 275

Sachin Jaiswal
v.
M/s Hotel Alka Raje & Other

(Civil Appeal No. 3269 of 2025)

27 February 2025

[Sudhanshu Dhulia* and Ahsanuddin Amanullah, JJ.]

Issue for Consideration

Whether the High Court was justified in holding that the Hotel constructed by the late father of the appellant on the property which he had bought in 1965, was his contribution to the firm and thus, the same was brought on to the stock of the firm and would become the 'property of the firm' as per Section 14, Partnership Act.

Headnotes†

Partnership Act, 1932 – s.14 – Interpretation – Late father of the appellant, if had brought the property in question to the stock of the partnership firm as his contribution to the same:

Held: s.14 enables a partner to bring a property which belongs to him, by the 'evidence of his intention' to make it a property of the firm and to do so, no formal document or agreement is necessary – In the present case, the late father of the appellant first acquired the property in the year 1965 and then after constituting the partnership firm (respondent No.1) in 1972, he jointly constructed a building over the property with his brother and partner, pursuant to which the building was constructed which was to run as a hotel – Thus, the late father of the appellant had brought the property in question to the stock of the partnership firm as his contribution to the same – The property had become the firm's property at the very moment he started constructing the hotel on his land after constituting the partnership – The evidence of his intention to contribute the land and the building of Hotel is clear – Order of the High Court not interfered with. [Paras 14, 15, 17]

Case Law Cited

Addanki Narayanappa v. Bhaskara Krishnappa **[1966] 3 SCR 400 : 1966 SCC OnLine SC 6 – relied on.**

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The Chief Controlling Revenue Authority vs. Chidambaram, Partner, Thachanallur Sugar Mills and Distilleries and Ors., **AIR 1970 Mad 5 (FB) – approved.**

List of Acts

Partnership Act, 1932.

List of Keywords

Section 14 of the Partnership Act; Land; Building of Hotel; Firm's property; Contribution to the partnership firm; Property brought on the stock of the partnership firm; 'Property of the firm' ; Partnership firm; Building constructed jointly over the property.

Case Arising From

Civil Appellate Jurisdiction: Civil Appeal No. 3269 of 2025

From the Judgment and Order dated 09.03.2022 of the High Court of Judicature at Allahabad, Lucknow Bench in FA No. 60 of 2021

Appearances for Parties

Advs. for the Appellant:
Ms. Vasudha Banka, Kushagra Kaul, Kabir Dixit.

Judgment / Order of the Supreme Court

Judgment

Sudhanshu Dhulia, J.

1. Leave granted.

2. The appellant before this court has challenged the order dated 09.03.2022 passed by the High Court of Judicature at Allahabad, in First Appeal No. 60/2021 by which the High Court has disposed of the First Appeal preferred by the appellant with certain clarifications.

3. Briefly, the facts necessary for our consideration are that father of the appellant, late Bhairo Prasad Jaiswal had vide registered sale deed dated 01.10.1965 purchased a plot of land admeasuring 4 bigha 10 biswa 5 biswansi situated at Mohalla Rikabganj, Faizabad. Then, in the year 1971, he entered into an oral partnership with his

brother, namely Hanuman Prasad Jaiswal, which was later reduced into writing vide Partnership Deed dated 11.10.1972 and thus the partnership firm, M/s Hotel Alka Raje i.e. respondent No. 1 herein was constituted. The two brothers jointly constructed a building on the land and started running a hotel business under the name and style of 'Hotel Alka Raje'.

4. In 1982, two new partners, which are respondent Nos. 2 and 3 herein, were inducted in the firm vide Partnership Deed dated 07.06.1982. In 1983, late Bhairo Prasad Jaiswal wished to relinquish his rights from the land on which the hotel was constructed and thus, he executed a relinquishment deed dated 09.03.1983 duly registered, pursuant to which the property was released in favour of M/s Hotel Alka Raje (respondent No. 1 herein). This Relinquishment Deed further stipulated that his legal heirs or successors will have no right, title or interest in the property.

5. Although he had relinquished his right and title from the property on which the hotel was constructed, late Bhairo Prasad Jaiswal still continued to run the hotel business along with the other three partners but due to old age, he was unable to devote much of his time to the business and thus, a Partnership Deed dated 01.12.2000 was entered into between the 4 partners, wherein the profits or losses of the partnership were to be divided as such that late Bhairo Prasad Jaiswal was to have a share of 10 paise in a rupee or 10% of the net profits or losses while the other three partners were to have 30% each.

6. On 30.05.2005, late Bhairo Prasad Jaiswal passed away and thereafter, a new Partnership Deed dated 02.06.2005 was executed between the three remaining partners, which included Shri Hanuman Prasad Jaiswal (brother of late Bhairo Prasad Jaiswal) and respondent Nos. 2 and 3 herein. The partnership firm continued with the above-mentioned three partners till the year 2017, when Shri Hanuman Prasad Jaiswal wished to retire due to old age and thus, a supplementary partnership agreement dated 01.04.2017 was executed, as per which, Shri Hanuman Prasad Jaiswal was to retire from the partnership w.e.f. 01.04.2017 and along with respondent Nos. 2 and 3, a new partner i.e. respondent No. 4 herein was inducted into respondent No. 1-firm.

7. Then a civil suit for declaration of title and decree of permanent injunction was filed by respondent Nos. 1-4 herein, on 22.11.2018

before the Civil Judge, Senior Division, Faizabad (hereinafter, 'Trial Court'). It was averred by the respondent-plaintiffs that in October 2018, the appellants, in order to stake a claim over the property on which the building of Hotel Alka Raje is situated, tried to take possession of the property, based on the claim that it was acquired by their late father, Bhairo Prasad Jaiswal. In their written statement, the defense taken by the present appellant was that the land was purchased by their father, late Bhairo Prasad Jaiswal and thereafter a building was constructed on it by him. Nowhere has it been stated that the land was purchased and building was constructed out of their ancestral fund/property. Their entire grievance seems to be that they should also have been made a partner in the firm which was denied.

8. The suit filed by respondents-plaintiffs was decreed by the Trial Court vide judgment and decree dated 22.12.2020 holding that respondent Nos. 1 to 4 are the sole owners-in-possession of the property and that the appellants have no right, title or interest in the same. To arrive at this finding, the Trial Court placed much reliance on the Relinquishment Deed dated 09.03.1983, which was executed by late Bhairo Prasad Jaiswal and the Trial Court was of the opinion that the said Relinquishment Deed, being a registered document has its veracity and there it is clearly mentioned in the same that late Bhairo Prasad Jaiswal had relinquished all his rights, title & interest in the property in favour of the firm-M/s Hotel Alka Raje, which is respondent No. 1 herein. Further, it was also mentioned in the deed that even the successors/heirs of late Bhairo Prasad Jaiswal would not have any share in the property.

9. Against the judgment and decree of the Trial Court, First Appeal was filed by the appellant herein along with other defendants to the suit. Vide Impugned Order dated 09.03.2022 the High Court disposed of the First Appeal with the following clarification with respect to the decree passed by the Trial Court:

> "*We, therefore, clarify the position to the effect that the decree rendered by the trial court shall be read in favour of the firm namely 'M/s Hotel Alka Raje' alone. We also clarify that the share of the partners particularly of late Bhairon Prasad Jaiswal shall stand inherited by his legal heirs to the extent mentioned in the last partnership deed entered in accordance with law.*

> *There is no other question raised by the appellants which is either urged or may call for any consideration.*
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> *The first appeal is, accordingly, disposed ·of with the clarification as aforesaid*."

In other words, the High Court has held that the only entity which could be said to be the owner-in-possession of the property, having rights, title and interest over the same is the partnership firm itself i.e., respondent No. 1 herein.

10. We have heard learned counsel for the appellant and although notice was served on all respondents, no appearance was entered on their behalf and this matter remained uncontested from the side of the respondents. It is submitted by learned counsel for the appellant that the High Court has committed an error in passing the aforesaid clarifications. It is further contended by the appellant that the High Court has passed the impugned order, without considering their submission that ownership rights/interest in a property cannot be transferred by way of a relinquishment deed and can only be done through the modes of transfer defined in the Transfer of Property Act, i.e. sale, mortgage, exchange or gift.

11. We shall now proceed to determine whether first, the High Court was correct in passing the aforesaid clarifications and secondly, whether the High Court fell into error by not taking into consideration the contention raised by the appellant as regards the fact that transfer of title over the property could not have taken place through a relinquishment deed. Even though the property belonged to late Bhairo Prasad Jaiswal, once he entered into a partnership with his brother Hanuman Prasad vide partnership deed dated 11.10.1972 and consequently the partnership firm-M/s Hotel Alka Raje came into existence, the property, inclusive of the land and the building which was constructed for running the hotel business, became a property of the firm by virtue of Section 14 of the Indian Partnership Act, 1932 (hereinafter, **'Partnership Act'**) which reads as under:

> "**14. The property of the firm**- Subject to contract between the partners, the property of the firm includes all property and rights and interests in property originally brought into the stock of the firm, or acquired, by purchase or otherwise, by or for the firm, or for the purposes and in the course

> of the business of the firm; and includes also the goodwill of the business.
>
> Unless the contrary intention appears, property and rights and interests in property acquired with money belonging to the firm are deemed to have been acquired for the firm."

The High Court has held that a bare perusal of Section 14 of Partnership Act would indicate that any property which is brought on the stock of the firm becomes the firm's perpetual property. In the opinion of the High Court, the Hotel which was constructed by late Bhairo Prasad Jaiswal on the property which he had bought in 1965, was his contribution to the firm and thus, the same was brought on to the stock of the firm and would become the 'property of the firm' as per Section 14 of the Partnership Act. In this regard, this is what the High Court has observed:

> "The dispute before the trial. court does not appear to be with respect of the proportionate share of partners but for a declaration of the property of 'Hotel Alka Raje' to be the property of firm. The suit was instituted by the firm as plaintiff no. 1 whereas respondent nos. 2 to 4 were the coplaintiffs. It is not in dispute that 'Hotel Alka Raje' which was constructed upon two plots out of which one belonged to late Bhairon Prasad Jaiswal was contributed by him as a part and parcel of the partnership deed. The said property inclusive of the land and building for all legal consequences became a property of the firm namely 'M/s Hotel Alka Raje' situated at Rikabganj, Faizabad."

12. Having heard learned counsel for the appellant and having gone through the record, we are in complete agreement with the High Court on the aforesaid aspect. The High Court based its order on an interpretation of Section 14 of the Partnership Act and taking into consideration the fact that it was an admitted position that the property was contributed by late Bhairo Prasad Jaiswal to the partnership firm.

13. The law on this point is settled which is that separate property of an individual partner, can be converted into partnership property. In this context, reliance can also be placed upon a judgment of this Court in ***Addanki Narayanappa v. Bhaskara Krishnappa, 1966 SCC OnLine SC 6*** in which this Court has held that irrespective of the

character of the property, when it is brought in by the partner when the partnership is formed, it becomes a property of the partnership firm, by virtue of Section 14 of Partnership Act. This Court held as follows:

> "**7.** It seems to us that looking to the scheme of the Indian Act no other view can reasonably be taken. The whole concept of partnership is to embark upon a joint venture and for that purpose to bring in as capital money or even property including immovable property. Once that is done whatever is brought in would cease to be the trading asset of the person who brought it in. It would be the trading asset of the partnership in which all the partners would have interest in proportion to their share in the joint venture of the business of partnership. The person who brought it in would, therefore, not be able to claim or exercise any exclusive right over any property which he has brought in, much less over any other partnership property. He would not be able to exercise his right even to the extent of his share in the business of the partnership. As already stated, his right during the subsistence of the partnership is to get his share of profits from time to time as may be agreed upon among the partners and after the dissolution of the partnership or with his retirement from partnership of the value of his share in the net partnership assets as on the date of dissolution or retirement after a deduction of liabilities and prior charges."
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> (emphasis supplied)

14. A similar view has been taken by the Full Bench of the Madras High Court in ***The Chief Controlling Revenue Authority*** vs. ***Chidambaram, Partner, Thachanallur Sugar Mills and Distilleries and Ors.*** **AIR 1970 Mad 5 (FB)**, wherein it was held that Section 14 of the Partnership Act enables a partner to bring a property which belongs to him, by the 'evidence of his intention' to make it a property of the firm and in order to do so, no formal document or agreement would be necessary. The Full Bench has thus held as follows:

> "First of all, as we earlier observed, under S. 14 of the Partnership Act, it is always possible for a partner to

> bring into the partnership, property belonging to him by the evidence of his intention to make it part of the assets of the partnership. There is a very early decision of the English Court, namely, *Robinson* v. *Ashton* which embodies this principle, where a man became a member of a partnership, and the agreement was that the business should be conducted at the mill belonging to him, and he was credited in the books of the partnership with the value of the Mills, Jessel M.R. said that it made no difference that his contribution was in the form of mill and machinery, and not in the form of money. The property, therefore, became the property of the partnership. On the same principle of S 14, we have the decision of the Full Bench of the Calcutta High Court in *Premraj Brahmin* v. *Bhaniram Brahmin* and the learned Judges pointed out that, by virtue of S. 14, property could be thrown into the partnership stock without any formal document, and would, therefore, become the property of the firm."
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> (emphasis supplied)

15. It is apparent from a perusal of the record that late Bhairo Prasad Jaiswal, first acquired the property in the year 1965 and then after constituting the partnership firm (respondent No. 1) in 1972, he jointly constructed a building over the property with his brother and partner, Hanuman Prasad Jaiswal, pursuant to which the building was constructed which was to run as a hotel. This leaves no room for any doubt that late Bhairo Prasad had brought the property in question to the stock of the partnership firm as his contribution to the same. In fact, this is precisely the reason which prompted the High Court to clarify that the decree rendered by the Trial Court ought to be read in favour of the partnership firm-respondent No. 1 alone, as opposed to being read in favour of the firm along with the other three partners, i.e. respondent Nos. 2-4 herein, because the property had become the firm's property at the very moment late Bhairo Prasad Jaiswal started constructing the hotel on his land after constituting the partnership. The evidence of his intention to contribute the land and the building of 'Hotel Alka Raje' is quite clear.

16. We are also of the opinion that with the above findings there was no occasion for the High Court to separately address the contention

put forth by the appellant regarding relinquishment and the legal aspects of it.

17. We therefore see no reason to take a view different from that of the High Court in this regard. There is absolutely no scope for our interference with the order of the High Court dated 09.03.2022 in the exercise of our jurisdiction under Article 136 of the Constitution of India.

18. Accordingly, the appeal stands dismissed.

Result of the case: Appeal dismissed.

†*Headnotes prepared by:* Divya Pandey