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**PARTNERSHIP DISPUTE AND LEGAL HEIRS' RIGHTS: A CASE
ANALYSIS OF SP MISRA VS MOHD. LAIUDDIN KHAN**

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Abstract

The dispute between Mr. Jai Narayan Misra and Ms. Hashmatunnisa Begum's legal heirs centers on a partnership agreement for real estate development in Secunderabad's Paigah enclosure. This is the subject of the lawsuit SP Misra vs. Mohd. Laiquddin Khan. Even though most of the land was developed, there was a disagreement about a particular area that Mr. Misra claimed. Mr. Misra received relief from the trial court, but the High Court supported the trial court's decision to reject a plea for execution against Ms. Begum's heirs following her death. The dissolution of a partnership upon a partner's death and whether a decree might be enforced against the deceased partner's heirs were topics covered by the Supreme Court in its investigation of the Code of Civil Procedure and legal heirs' rights in partnerships. The court stressed that the death of one of the two partners dissolves the partnership, regardless of any agreements made between the partners, making the order invalid against the deceased partner's heirs. The case emphasizes how crucial legal representation is for property transfers, partnerships, and comprehension of civil procedural laws.

Keywords: dispute, partnership agreement, real estate development, relief, dissolution, property transfers, civil procedural laws.

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The conflict between Mr. Jai Narayan Misra and the rightful heirs of Ms. Hashmatunnisa Begum is the focus of the case SP MISRA VS MOHD. LAIUDDIN KHAN. To develop a plot of land in Secunderabad's Paigah enclosure for the real estate business, the two partners inked a partnership agreement in 1982. While most of the land had been developed, the partners had a dispute over a piece that Mr. Misra claimed. The High Court later upheld some reliefs that the trial court had given to Mr. Misra. The trial court rejected a request for execution made by Mr. Misra's legal heirs after his passing against Ms.

Begum's legal heirs. The High Court also upheld this judgment. The appellants appealed the High Court's decision and the trial court's ruling to the Supreme Court. In this case study, the court's application of the Code of Civil Procedure and the rights of legal heirs in partnership disputes are explored.

FACTS OF THE CASE

In this case, the Respondents are Ms. Hashmatunnisa Begum's legal heirs, whereas the Appellants are Mr. Jai Narayan Misra's legal heirs. In this case, the appellants filed a civil appeal against the Andhra Pradesh High Court's Hyderabad order, upholding and affirming the trial court's verdict. The trial court granted the respondents' application under Section 47 of the 1908 Code of Civil Procedure. On April 14, 1982, Mr. Jai Narayan Misra and Ms. Hashmatunnisa Begum signed a partnership arrangement while still living. According to the partnership agreement, Ms. Hashmatunnisa Begum owned an open piece of property of roughly 22,253 square meters and had buildings built on it. This plot of land was located within Secunderabad's Paigah enclosure. The two partners, as mentioned earlier, formed a partnership with the intention of doing real estate business by developing the tract above of land. Even though the majority of the property had been developed, the partners differed over the 3,381 square meters claimed by the first plaintiff, Mr. Jai Narayan Misra. According to the cooperation, the partnership corporation had only two partners. The original plaintiff, Mr. Jai Narayan Misra, died in 2001, while the original defendant, Ms. Hashmatunnisa Begum, died in 1996. During his lifetime, Mr. Jai Narayan Misra filed the following claims against Ms. Hashmatunnisa Begum at the trial court:

Grant a mandatory injunction requiring the defendant to sign the layout and other documents that will be submitted to the Cantonment Board for approval about the 3,381 square meter land, preventing the defendant and anyone claiming through the defendant from interfering with the plaintiff's work of developing the property and selling it. The defendant was told to sign the layout design and other documents that would be presented to the Cantonment Board in Secunderabad for sanction regarding the suit schedule property. On July 14, 1993, the trial court granted the following reliefs in the litigation as mentioned earlier: the defendant and all parties claiming through the defendant were permanently barred from constructing and selling property in connection to the suit schedule property. Mr. Jai Narayan Misra's legal heirs petitioned the trial court for an execution against Ms. Hashmatunnisa Begum's legal heirs after his death. The Respondents petitioned the trial court under Section 47 of the Code of Civil Procedure, seeking that the execution petition be rejected because the trial court's decision is null and unlawful and cannot be carried out. In a ruling dated February 1st, 2006, the trial court allowed the application above. The High Court maintained and restated the trial court's conclusion that Ms. Hashmatunnisa Begum's judgment is not executable against her legal heirs. The appellants in this instance filed an appeal with the Supreme Court, she was aggrieved by the aforementioned challenged conclusions of the trial court and the High Court (Mulla, 2019b).

ISSUES

The Supreme Court resolved the following legal issues:

Does the partnership business dissolve when a partner passes away?

If a judgment acquired by a decree-holder who is also a partner in a partnership business may be enforced against the legitimate heirs of such deceased partner? (Mulla, 2019b)

JUDGEMENT

The attorneys present for the Appellants, and the Respondents made their arguments known to the Apex Court. The attorney for the appellants argued that under the terms of the partnership deed, in the event of a partner's demise, the partner's legal heirs shall automatically become partners of the partnership firm and shall continue to act as partners of the firm until the venture as intended by the partnership is completed. They shall enjoy the same rights and shall

be subject to the same liabilities and responsibilities as the trial court's and the Supreme Court's rulings that a final decree cannot be enforced against a judgment debtor's legal heirs are incorrect, according to the appellant's attorney's argument. On the other hand, the attorney for the respondents argued that because there were only two participants in the partnership firm, the partnership firm was dissolved by Section 42(c) of the Partnership Act of 1932 when one of the partners passed away (Mulla, 2019c). In this situation, it would only be necessary to determine who the legal heirs would be if the partnership had been dissolved in place of their predecessor. Thus, the decree cannot be carried out against them.

The order Mr. Jai Narayan Misra obtained against Ms. Hashmatunnisa Begum cannot be carried out since the Respondents were not parties to the partnership deed and the partnership business was dissolved following the death of one of its members. The attorney for the respondents further argued that any language in a partnership deed that conflicts with the rules established by the Partnership Act of 1932 is unlawful and against public policy. According to the Apex Court, the reliefs requested by the decree-holder's legal heirs against the judgment debtor's legal heirs go beyond the parameters of the ruling made by the trial court in the original lawsuit. It is a well-established rule that the executing court must stay within the decree's parameters. The Partnership Act of 1932's Section 42 addresses instances in which a partnership may be dissolved when specific events occur. According to the clause above, a firm is dissolved when: (a) if it was formed for a fixed period, that period expires; (b) if it was formed to carry out one or more adventures or undertakings, those activities are completed; (c) a partner dies; and (d) a partner is declared insolvent (Mulla, 2019c).

Does a Partnership firm continue to exist with the deceased's legal representative as a new Partner?

An essential reading of Section 42 (c) of the Indian Partnership Act of 1932 discloses that the death of a partner, unless otherwise agreed, dissolves the partnership. Even if the contract states otherwise, a partner's death leads to the firm's dissolution if there are only two partners. In Mohd Laiquiddin v Kamala Devi Misra (dead), represented by LR's, the Supreme Court declared that if a firm has just two partners, the death of one of them is considered termination. The partnership, regardless of any stipulation to the contrary. The facts of the case are as follows: Shri Jai

Narayan Mishra agreed to use the respondent's (original plaintiff Kamala Devi Misra's) land in this dispute (the original defendant, since deceased). The site was meant to be used to construct a cinema. This arrangement was formed on June 26, 1977, with the signing of a partnership document. According to the partnership agreement, the original plaintiff's portion would be two annas for every rupee in profit, with a guaranteed minimum profit of Rs 2,000 per month. The partnership was to endure 42 years and might be extended for another 20 years at the option of the first defendant. Additionally, a provision in the partnership agreement stated unequivocally that the death of any of the partners would not result in the partnership's dissolution. The plaintiff filed a complaint, alleging that the defendant mismanaged the firm's operations and falsified its records. The petitioner and defendant had an unbreakable mistrust.

The plaintiff declined to remain a partner in the firm as a result of this distrust. Notwithstanding his doubts, the defendant persisted in maintaining the link. Yet, on May 17, 1996, the original complainant died. The trial court determined that the partnership firm was dissolved as a result of the original plaintiff's death. According to the first appeal court, the corporation could not be sustained because it had just two partners, one of whom had died. In the second appeal, the High Court of Hyderabad reviewed a variety of problems. Concerning whether the partnership firm was dissolved by Section 42(c) of the act(2) due to the plaintiff's death, the High Court relied on the decisions in CIT v Suraj Bhan Omprakash and Parvathammal v CIT. It held that the firm was dissolved on the death of one of the partners, despite an agreement for its continuation for 42 years, despite the death of either partner. Following the death of the original plaintiff and defendant, their legal representatives petitioned the court under Indian Constitution Article 136. (Dubey & Tripathi, 2011).

The partnership is defined in Section 4 of the statute as "a relationship between persons who have agreed to share the profits of a company carried on by all or any of them acting for all." The parties' contract controls the dissolution of a partnership business due to the death of one of the partners.

The partnership agreement explicitly specified that the death of any partner would not result in the company's dissolution. Yet, given the facts and circumstances of this case, the same unequivocal judgment could not be reached. As a result, the dead partner's legal representative

was not forced to engage in a new partnership agreement and was not prevented from obtaining benefits if it declined. The court's ruling was based on an earlier case (*Parvathammal v CIT*), which said that when one of two partners died, the firm was immediately dissolved. "A partnership normally dissolves on the death of the partner," it added unless otherwise specified in the initial partnership agreement. Even if such an agreement existed in a two-person partnership, the death of one of the partners immediately dissolves the partnership, and no third person may join the collaboration. The partnership was founded by contract rather than inheritance."

According to the Supreme Court, when a business has just two partners, the death of one of them, regardless of any agreement to the contrary, results in the firm's dissolution. A partnership is a contract formed by the partners; no contract may be formed without the other partner's permission. The partnership can only be continued if the original plaintiff's legal representatives are interested in continuing the company or creating a new firm. There is no legal necessity for them to do so since, as mentioned in Section 5 of the Act, a partnership is a Contractual arrangement rather than a legal entity. The firm was dissolved when one of the partners died.

A partnership is a contract between the partners; no contract may be formed without the other partner's consent. The partnership can only be continued if the original plaintiff's legal representatives are interested in continuing the company or creating a new firm. There is no legal necessity for them to do so since, as stated in Section 5 of the Act, a partnership is a contractual arrangement rather than a heritable status. The firm was dissolved when one of the partners died. *Sugar Mills of Seth Govindram v. Commissioner of I.T.* It is stated in this case that in a partnership firm if a deed states that upon the death of one of the partners, the heirs of the deceased partner shall be admitted in the firm in his place, the said clause in the partnership deed can be given effect if the firm has three or more partners, but not if the firm only has two partners (Dubey & Tripathi, 2011). The same point was raised in *Tirupati Constructions Company vs. Central Bureau of Investigation*. Unless otherwise specified in the contract, the death of a partner in a partnership with more than two partners leads to the partnership's dissolution. It was ruled in the case of *CIT v. K Wadhmal and Sons* that "it is recognized law

that, after the death of a partner, the partnership firm is immediately dissolved under section 42 of the Indian Partnership Act. The only exception is if the partnership agreement states that the firm will not be dissolved if a partner dies. There is no evidence in this case that the partnership agreement says that the firm would not be dissolved following the death of a partner. ".Nothing in the partnership agreement said that the link would survive the death of one of the partners." As a result, the partnership was dissolved by Section 42 of the Partnership Act.

Partnership Conflicts

A partnership quarrel can occur for a variety of reasons, including:

Underperformance by a partner: Each partner is allocated a specific job when a partnership is created. The other partners may have differing views if one partner is unable to do their job efficiently.

Profits must be freely revealed to all partners: Any profits produced by the partnership must be openly disclosed. Any partner generating a hidden profit without the knowledge of the other partners may result in a quarrel in the partnership.

Conflicting business interests: All partners must have the same business interests. Conflict can arise when two partners have opposing viewpoints and the other partners do not agree. Conflicts affecting the management team or individuals: In this case, it may be advisable to break the relationship entirely. In rare situations, you may need to go to court to guarantee that everything is in order and that the organization's assets are distributed equitably (Dispute Settlement in Partnership Disputes: A Judicial Approach, n.d.-b).

Partner Conflict Resolution

After reviewing the various possible causes of partnership disagreements, dispute resolution is brought up. A professional and fair conflict resolution mechanism is essential to keep the partnership company running well. The approach starts with the partners deciding on the type of resort they want, or in any other way indicated in the Partnership Agreement. If mediation is chosen as a technique of conflict resolution, the mediation

appointment or location is seen as a step in the dispute resolution procedure. Both parties have several options for resolving a partnership conflict. The parties might settle their issues through dialogue and alternative dispute resolution (ADR) or by going to court.

When there are problems in a relationship, the three most successful strategies to resolve them are as follows:

Arbitration: An arbitrator, who may be nominated by the parties or by the court, is engaged. The judgments of the arbitrator are binding on the parties. It is less costly, easier, and faster than going to court.

The process of appointing a neutral mediator to address a situation is referred to as mediation. Instead of resolving the subject, the mediator strives to foster an open dialogue. It is a very cost-effective method since it allows all parties to contribute to the settlement of the problem. The mediator does not impose a decision. Rather than a neutral third party such as a court, the parties have complete influence over the result of the mediation.

Negotiation is one of the most basic methods for settling differences. It is typical for disputing parties to reach an amicable resolution without the necessity for formal mediation.

Of the three conflict resolution techniques, ADR is the most effective for resolving difficulties in partnership concerns (Alternative Dispute Resolution). ADR is the most used approach for resolving partnership conflicts (Dispute Settlement in Partnership Disputes: A Judicial Approach, n.d.-b).

The advantages of ADR are numerous and ADR offers several benefits, including:

Money and time savings: Every ADR procedure has the potential to be more cost-effective and efficient.

Adaptability of procedure and outcome: It enables disputing parties to pursue ADR more flexibly. The procedure can be adapted to the parties' needs.

Control: Disputed parties may select the best-suited third party to resolve their dispute. Users may also like the location, time, and date that are most convenient for them.

Any ADR techniques suggested or utilized by the parties to resolve a disagreement will always be kept entirely secret.

Arbitration

A standard provision in a partnership agreement states that any disagreements between partners must be resolved through arbitration. Section 34 of the Arbitration Act of 1940 outlined the processes for suspending judicial proceedings when arbitration was agreed upon. Unlike Section 34 of the Arbitration Act of 1940, which gave the court the authority to postpone legal proceedings, Section 8 of the Arbitration and Conciliation Act of 1996 allows the Court to send the parties to arbitration if they have agreed. This section gives the court hearing an application the authority to enforce a valid arbitration agreement and send the parties to it (Dispute Settlement in Partnership Disputes: A Judicial Approach, n.d. -b).

When a Conflict Occurs Between Three Or More Partners

Any disagreements between the partners, or any of them, or between any partner, partners, and the representatives of another partner, or between their legal representatives, whether before, during, or after the partnership's formation, regarding the interpretation of these terms, regarding any act or omission on the part of any party to the dispute, regarding any action that should have been taken by any of the parties to the conflict, If not, each party shall designate One arbitrator will resolve the dispute by and subject to the requirements of the Indian Arbitration Act or any statutory amendment to it, and there shall be two arbitrators.

In Subal Chandra v. Mahomed Ibrahim, a motion to stay litigation according to Section 34 of the Arbitration Act raised the issue of an arbitration provision with such wording. On page 486 of the Report, Das J noted:

The terms of the arbitration clause are rather broad. Given that there are three parties to the deed of partnership, it is also pretty strange. The alternative clause calling for the appointment of two arbitrators, one by each party to the dispute, would be improper and impractical if the parties could not agree on a single arbitrator. Both parties must consent to refer to a single arbitrator, while there is a different procedure for appointing two arbitrators.

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Making a new contract between the parties would only be possible if this arbitration agreement were interpreted as absolute consent to send all disputes to a single arbitrator.

Having a proposal that references more than two arbitrators is common. Such scenarios are envisioned under Sections 8 and 10 of the Act. The former legislation on the matter had a gap on the issue. A "submission" in *Re Babaldas Khemchand* called for three arbitrators to be chosen by the three partners. The court was asked to halt the lawsuit after one of the partners filed a lawsuit in violation of the partnership agreement because the partnership agreement called for the referral of partner issues to arbitration. The lawsuit should be suspended; it was decided to bring together all partners to submit to a dispute (*Dispute Settlement in Partnership Disputes: A Judicial Approach*, n.d.-b).

Because partnership account disputes would affect the interests of all the partners and could not be resolved piecemeal by some of the partners without the consent of the others, it is evident that disputes relating to partnership accounts cannot be settled by arbitration unless all parties agree. Interested in the accounts joined in the submission. When a partner dispute of this nature was referred to arbitration outside of court under the presumption that all partners had joined in the reference, but it later turned out that there was no valid reference on behalf of the partners, it was decided that the award was not enforceable against any of the partners. According to the same theory, a minor who has been granted access to the advantages of a dissolved partnership is just as essential a party to the submission and the arbitration as the partners themselves.

The Arbitrator's Function in Resolving Conflicts

An arbitrator has vast powers under the general submission of partners of all kinds who conflict with one another. He can end a partnership, compel one party to turn over papers and respond to questions, determine if a custom exists that affects the parties' rights, and order one party to pay the other party money or provide security for such payment. Divide the assets equally, value the goodwill, order transfers, instruct one partner to bring a lawsuit on behalf of the other partners, provide them with an indemnity bond, place certain restrictions on one partner's ability to do business, and order the execution of a mutual release. The Supreme Court ruled that the arbitration clause in *Erach Mehta v. Minoo Mehta*, which stated that "all disputes touching the partnership agreement, including divisions of assets, debts or liabilities, shall be

referred to arbitrators," covered a disagreement over whether the partners had agreed to dissolve the partnership (*Dispute Settlement in Partnership Disputes: A Judicial Approach*, n.d.- b).

Result Of The Dispute Settlement Award

A legitimate award rendered following a party's referral to an arbitrator is treated equally to a final adjudication between the parties about all topics thus addressed. The submission binds the rights of the parties concerning both the law and the issues covered by when it has been made, the submission and the award provide the only basis for determining the parties' rights and serve as a bar to any further action on the original demand—a valid award acts to combine and extinguish all claims included in the submission. Even when no legal action has been taken to enforce it, it is nonetheless enforceable. That is judgment-like, not just a simple agreement (*Dispute Settlement in Partnership Disputes: A Judicial Approach*, n.d.-b).

CONCLUSION

Regardless of what the partnership agreement states, the Supreme Court determined that because there were two partners instead of one, the partnership firm was dissolved upon the death of one of them. There cannot be a partnership in such circumstances that would permit Ms. Hashmatunnisa Begum's legal heirs to continue the collaboration in her stead following the dissolution of the partnership business. The judgment obtained by Mr. Jai Narayan Misra against Ms. Hashmatunnisa Begum, in compliance with the partnership agreement dated 14th April 1982, cannot bind her legal heirs since it cannot be enforced against them. The Supreme Court further pointed out that Ms. Hashmatunnisa Begum's rightful heirs were not parties to the partnership agreement. The partnership agreement of the partnership business cannot award any rights to, nor can it impose any obligations or liabilities on, the legal heirs of Ms.

Hashmatunnisa Begum since they are not parties to the partnership agreement. Under these situations, the privity of contract notion is applicable. The executable decree is based on the rights that the parties dispute. The respondents maintained that because they had not taken any assets or liabilities from the partnership firm, the decree obtained against their predecessor by the decree-holder did not bind them and hence could not be applied against them (Mulla, 2019d).

Comments

The case emphasizes the need to have competent legal counsel when dealing with partnerships and property transfers in court. It also offers a compelling example of the legal doctrine governing the enforcement of judgments against legal heirs. The case emphasizes how crucial it is to comprehend the Code of Civil Procedure's 1908 provisions, notably Section 47, which deals with issues that may arise during the implementation of judgments and orders. The property ownership of the contested 3,381 square meters, which was the subject of a partnership agreement between the deceased parties, was one of the case's fundamental problems. An important decision in the case was the trial court's decision to award a mandatory injunction forcing the defendant to sign the layout design and other papers for submission to the Cantonment Board, Secunderabad, for sanction. The result showed that the court had the power to uphold its rulings and ensure its instructions were followed. The decision issued by the trial court against Ms. Hashmatunnisa Begum's legal heirs was another critical problem.

According to the Respondents, the judgment against Ms. Hashmatunnisa Begum was unlawful and invalid and could not be enforced against her legitimate heirs. The trial court and the Supreme Court upheld the argument because it is compatible with the rule of law that says that unless the rightful heirs are impleaded as parties to the matter, a judgment against a deceased person cannot be enforced against them.

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