D/L.1.
November 20, 2026.
MNS.

SA No. 103 of 2025
+
CAN 1 of 2025

Iftekhar Alam
Vs.
M/s. K. N. Paul

Mr. Sounak Bhattacharya,
Mr. Sounak Mondal, Advs.

… for the appellant.

Mr. Saptansu Basu, Sr. Adv.,
Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Mr. Kaustav Bhattacharya, Advs.

…for the respondent.

1. The present Second Appeal has been preferred against a judgment of affirmance, whereby the courts below decreed the eviction suit against the appellant on the ground that the appellant is a licensee in respect of the suit premises.

2. The original plaint case was that one M/s. K. N. Paul, a partnership firm, inducted the present appellant as a licensee in the suit premises. Subsequently, the plaint was amended to incorporate pleadings to the effect that the said M/s. K. N. Paul became a sole proprietorship firm in view of retirement and death of some of its partners, leaving being only one surviving partner. Consequentially, the partners other than the sole remaining plaintiff were expunged as parties from the suit.

3. Learned counsel for the appellant argues that simultaneously with the eviction suit, a declaratory suit filed by the appellant was decreed in favour of the appellant, declaring that the appellant is a licensee in respect of the suit premises under the partnership firm and granting permanent injunction restraining the defendants therein from disturbing the possession of the appellant “without due course of law”.

4. Learned counsel submits that in the trial court’s judgment passed in the declaratory suit of the appellant, the court came to a specific finding that the defendant therein, namely M/s. K. N. Paul, had failed to file a scrap of paper establishing that the partnership had been converted to a sole proprietorship.

5. It is argued that the said observation ought to have operated as *res judicata* in the eviction suit.

6. Moreover, the judgment passed in the declaratory suit of the appellant, it is submitted, is contradictory to the eviction decree.

7. However, upon going through the judgment of the Trial Court in the eviction suit, we find that the learned Trial Judge specifically dealt with the issue and observed that mere change in the constitution of the firm does not affect its relation with the licensee inducted by it. In spite of the retirement and death of the partners of M/s. K. N. Paul, the entity was held to have been remained the same, at least to continue its relationship with the defendant, who was admittedly inducted by it, and it was observed by the Court

to be ridiculous to presume that after dissolution and reconstitution of the partnership firm, the licence created by it came to an end and the licensee acquired absolute right over the suit stall in respect of which licence was granted.

8. Simultaneously, it was also held in both the suits that the appellant was a licensee in respect of the suit property.

9. Although the appellant seeks to raise the issue as to whether, after conversion into a sole proprietorship, the said entity any longer remained a lessee under the Howrah Improvement Trust, its superior landlord, such question was not specifically raised in the courts below.

10. That apart, we concur with the findings of the courts below that the status of the appellant as a licensee did not change merely by conversion of the partnership into sole proprietorship, in view of the entity remaining the same in essence.

11. It is not the case of any party that a completely new entity came in as the sole proprietor of M/s. K. N. Paul. Merely by retirement and/or death of some of the partners, one of the partners became the sole proprietor of the said entity.

12. Thus, the essential character and jural relationship between the parties vis-à-vis the suit premises did not alter.

13. Also, there is no contradiction between the decrees passed in the respective suits of the appellant and the respondent, since the decree passed in the appellant’s suit

declared the appellant to be a licensee of the suit premises (which was the premise of the eviction decree as well) and granted injunction restraining the respondent from disturbing the appellant's possession "without due course of law" (eviction by the court's decree coming within the purview of "due course of law").

14. In such view of the matter, we do not find any substance in the appeal.

15. There is no substantial question of law involved as well.

16. Accordingly, SA No. 103 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure.

17. Consequentially, CAN 1 of 2025 is also dismissed.

18. There will be no order as to costs.

19. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Md. Shabbar Rashidi, J.) (Sabyasachi Bhattacharyya, J.)