

REVISIONAL CIVIL

Before Daya Krishan Mahajan, J.

TILAK RAJ,—Petitioner.

v,

B. L. VERMA AND OTHERS,—Respondents.

Civil Revision No. 121-D of 1961.

1963
 July, 19th.

*Partnership Act (IX of 1932)—Ss. 19, 22, 25, 26 and 27—
 Lease deed executed by one of the partners on behalf of the
 firm—Whether binding on other partners.*

*Held, that it is apparent from the combined reading of
 sections 19, 22, 25, 26 and 27 of the Indian Partnership Act,
 1932, that a lease-deed executed by one of the partners on be-
 half of the firm will bind all the partners and it cannot be
 said that there is no privity of contract between the land-
 lord and the partners other than the one who signed the
 lease-deed.*

*Petition under section 25 of Act IX of 1887 (Provin-
 cial Small Cause Courts Act) for the revision of the order
 of Shri P. P. Singh, Additional J. S. C.C. Delhi dated the
 31st October, 1960, decreeing the suit with costs against
 defts. 1, 3 and 5.*

N. D. BALI, ADVOCATE, for the Petitioner.

YOGESHWAR DAYAL, ADVOCATE, for the Respondent.

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MAHAJAN, J.—This order will dispose of Civil Revisions Nos. 121-D of 1961, 306-D of 1961 and 307-D of 1961. The point that requires determination in all these petitions is common to all. The point is whether a lease-deed executed on behalf of the partnership binds the partners. In order to arrive at a correct decision of the matters it is proper to set out the relevant facts.

B. L. Verma, who is the landlord of the premises consisting of two sets of godowns, executed two documents of lease on the 20th of May, 1952,

in favour of Mysore Soap Mills through Jagdish Rai, the managing partner of the firm. In the documents of lease all the other partners are mentioned; they being, besides Jagdish Rai, Kundan Lal, Tilak Raj, Wazir Chand and Madan Lal. As the rent was in arrears from the partnership for various periods, three suits were filed for its recovery by the landlord in the Court of the Judge, Small Cause Court, Delhi, against all the partners including one Vishwa Nath. These suits were decreed by the trial Court against all the partners but were dismissed against Vishwa Nath. One of the partners, namely, Wazir Chand, came up in revision to this Court. Three revision petitions were filed, one against each of the decrees in the suits. The decrees of the trial Court were set aside and the cases were remanded to the trial Court for a fresh decision. The trial Court again decreed the suits against all the partners excepting Wazir Chand. It is against these three decrees that the present petitions for revision have been filed by Tilak Raj. The only contention raised by his counsel is that he being not a party to the lease deeds there is no privity of contract between him and the landlord and, therefore, the suits against him are not maintainable. In support of this contention the learned counsel relies on a decision of the Bombay High Court in *Ragoonathdas Gopaldas and others v. Morarji Jutha and others* (1). This decision does support his contention but will be of no avail as this decision was given long before the Indian Partnership Act (Act No. IX of 1932) was enacted. It will be at this stage proper to set out the relevant provisions of this Act. Section 19 deals with the implied authority of a partner as agent of the firm and is in these terms:—

“(1) Subject to the provisions of section 22, the act of a partner which is done to

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carry on, in the usual way, business of the kind carried on by the firm, binds the firm.

The authority of a partner to bind the firm conferred by this section is called his 'implied authority'.

- (2) In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to—
- (a) submit a dispute relating to the business of the firm to arbitration,
 - (b) open a banking account on behalf of the firm in his own name,
 - (c) compromise or relinquish any claim or portion of a claim by the firm,
 - (d) withdraw a suit or proceeding filed on behalf of the firm,
 - (e) admit any liability in a suit or proceeding against the firm,
 - (f) acquire immovable property on behalf of the firm,
 - (g) transfer immovable property belonging to the firm, or
 - (h) enter into partnership on behalf of the firm".

Section 22 deals with the mode of doing act to bind a firm and is in these terms:

"In order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm."

Section 25 deals with the liability of a partner for acts of the firm and is in these terms:—

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“Every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.”

Sections 26 and 27 also provide for the vicarious liabilities of the partners and are in these terms:—

“26. Where, by the wrongful act or omission of a partner acting in the ordinary course of the business of a firm, or with the authority of his partners, loss or injury is caused to any third party, or any penalty is incurred, the firm is liable therefore to the same extent as the partner.

27. Where—

- (a) a partner acting within his apparent authority receives money or property from a third party and misapplies it, or
- (b) a firm in the course of its business receives money or property from a third party, and the money or property is misapplied by any of the partners, while it is in the custody of the firm,

the firm is liable to make good the loss.”

It will be apparent from the combined reading of these provisions that the lease-deeds Exhibits P. 1 and P. 2, which were executed on behalf of the partners, will bind all the partners and, therefore, there is no substance in the contention that there is no privity of contract between the landlord and

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the partners other than the one signing the lease-deeds. It is not disputed that the lease-deeds have been properly executed on behalf of the firm. In this view of the matter these petitions fail and are dismissed with costs. The record be sent to the trial Court without any delay.

K.S.K.

CIVIL MISCELLANEOUS

Before H. R. Khanna, J.

TIRLOK CHAND,—Appellant.

v.

RAM KISHAN DASS,—Respondent.

Second Appeal from Order No. 82-D of 1963.

1963
July, 24th.

Delhi Rent Control Act (LIX of 1958)—Ss. 14 and 15—Petition for ejectment on ground of non-payment of rent—Tenant obtaining benefit as regards deposit of arrears of rent—Whether can obtain the same benefit over again in the same proceedings—Object of the Proviso to S. 14(2)—Benefit of S. 14(2)—Whether can be had in successive proceedings—S. 14(i) proviso—"May"—meaning of.

Held, that the proviso to sub-section (2) of section 14 of the Delhi Rent Control Act, 1958 makes it quite clear that a tenant having once availed of the benefit of the provisions of the Act, relating to the deposit of rent during the pendency of a petition for ejectment on ground of non-payment of rent in spite of notice of demand, cannot claim the benefit of those provisions over again if he makes a default in the payment of rent of those premises for three consecutive months. The object of the above proviso is to prevent on pain of eviction repeated default in payment of rent by a tenant after notice of demand has been served on him. The proviso clearly contemplates that the indulgence of sub-section (2) of section 14 of the Act can be shown only once to a tenant in respect of a premises and is not to be repeated a second time in case a tenant makes a default in the payment of rent of those premises for three consecutive months.