has been violated in this case. The matter was purely within the discretion of the employer. In the circumstances of the present case, we are not inclined to issue any direction to the employer to consider the case of the petitioners in this behalf.

S.C.K.

Before V. Ramaswami, CJ and G. R. Majithia, J.

JOGINDER SINGH AND OTHERS,—*Petitioners.*

versus

DIRECTOR, CONSOLIDATION OF HOLDINGS, PUNJAB AND OTHERS,—*Respondents.*

Civil Writ Petition No. 564 *of* 1986 (*O & M*)

August 8, 1988.

East Punjab Holding (Consolidation and Prevention of Fragmentation) Act (L of 1948)—S. 42—Punjab Village Common Lands (Regulation) Act (XVIII of 1961)—Ss. 2(g) and 11—Right holders claiming partition of Banjar Qadim land according to Wajib-ul-Arz—Petition filed under Section 42 before Director, Consolidation—Director granting prayer for partition—Director of Holdings holding that the land is not the Shamlat Deh—Validity of such order—Rights under Village Common Lands Act—Determination of such rights.

Held, that a reading of definition of Shamlat Deh contained in section 2 (g) of the Punjab Village Common Lands (Regulation) Act, 1961 clearly shows that the land in dispute does not come within the ambit of 'Shamlat Deh'. It is not described in the revenue record as Shamlat Deh. No material has been placed before us to hold that the finding arrived at by the Director, Consolidation of Holding, on a perusal of the revenue record is vitiated. We do not find any infirmity or illegality in the order of Director of Consolidation of Holdings holding that the land is not a Shamlat Deh. Resultantly, it did not vest in the Panchayat. Moreover, Banjar or Banjar Qadim land will be deemed to be in possession of the owners till contrary is proved. The land was in possession of the proprietors as per their shares in the Khewat. Apart from this, an error of law which is apparent on the face of the record can be corrected by a writ, but not error of fact, however, grave it may appear to be.

(Para 9).

Held, further that Section 11 of the Punjab Village Common Lands Act, 1948 envisages that a person claiming right, title or interest to any land vested or deemed to have vested in the Panchayat under the Act can submit to the Collector within such time as may be prescribed, statement of his claim showing in writing, signed and verified in the manner prescribed and the Collector shall have the jurisdiction to decide such a claim. The order passed by the Collector is appealable before the Commissioner. A complete machinery is provided to adjudicate the rights of a person who asserts whether a particular land vest or does not vest in the Panchayat. The petitioners could have availed themselves of the remedy open under Section 11 of the Act, but no grouse can be made against the order passed by the Director, Consolidation of Holdings.

(Para 10)

Civil Writ Petition under Articles 226 *and* 227 *of the Constitution of India praying that after summoning the complete record of this case, this Hon'ble Court may be pleased*:—

(a) *to issue a writ in the nature of* Certiorari *quashing the impugned order dated* 13*th December,* 1985, *passed by Respondent No.* 1;

(b) *any other appropriate writ, order or direction as deemed fit and proper in the facts and circumstances of the case may be issued;*

(c) *pending the decision of this petition, this Hon'ble Court may be pleased to stay the operation of the impugned order Annexure P-3;*

(d) *filing of certified copies of the Annexures and service of prior notices to the respondents may kindly be dispensed with;*

(e) *this petition may kindly be accepted with costs.*

CIVIL MISC. NO. 5230 *of* 1988

Application under section 151 *C.P.C. praying that this Hon'ble Court may be graciously pleased to pass appropriate orders/ directions*:

(i) *restraining respondent No.* 2 *from auctioning the suit land since the Gram Panchayat has got no* locus standi *to auction the same, the Gram Panchayat no longer having ownership rights over the suit land and/or.*

(ii) *directing that the petitioners have no right to continue to be in possession over the suit land since they are lessees of respondent No. 2 who is not the owner of the suit land and/or.*

(iii) *pass such orders or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in order to secure the ends of justice.*

CIVIL MISC. NO. 2906 *of* 1987.

Application under section 151 *C.P.C. praying that the filing of certified copy of the order may kindly be dispensed with. Reply may also be allowed to placed on record.*

CIVIL MISC. NO. 2116 *of* 1987

Application under section 151 *C.P.C. praying that this Hon'ble Court may be gracioulsy pleased to:—*

(i) *vacate the aforesaid stay order passed by this Hon'ble Court, and/or.*

(ii) *direct that the Petitioner have no right to continue to be in possession over the suit land since their lease (which was entered in collusion with respondent No.* 2) *stands terminated, and/or.*

(iii) *direct that the auction money be deposited in court, the Gram Panchayat being not entitled for the same; and/or.*

(iv) *direct that the petitioners shall not be dispossessed except in due course of law, if this Hon'ble Court deems fit and proper in the facts of the present case; and/or.*

(v) *Pass such order or directions as this Hon'ble Court deems fit and Proper in order to secure the ends of justice.*

(vi) *stay the auction to be held by the Panchayat (respondent No.* 2.).

It is, therefore, prayed accordingly.

CIVIL MISC. NO. 2371 *of* 1987

Application under section 151 *of the Civil Procedure Code filing of the certified copies of the Annexures may kindly be dispensed with.*

Joginder Singh and others *v.* Director, Consolidation of Holdings, Punjab and others (G. R. Majithia, J.)

CIVIL MISC. NO. 2372 *of* 1987.

Application under section 151 *of the Civil Procedure Code praying that this Hon'ble Court may be graciously pleased to allow the applicants in this petition to place the annexed documents (Annexures 'R-7' and 'R-8' and counter affidavit of Respondents* 2 *to* 25 *on record for the just and fair adjudication of the pending Civil Writ Petition No.* 564 *of* 1986 *and Civil Misc. Petition No.* 2116 *of* 1987 *in the said Civil Writ Petition which is also pending consideration by this Hon'ble Court and further pass such further orders or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

P. K. Palli, Senior Advocate, A. V. Palli, Advocate and Mrs. Rekha Palli, Advocate with him, *for the Petitioner.*

I. S. Vimal, Advocate, *for Respondent No.* 2.

Mrs. Madhu Tewatia, Advocate, *for Respondent No.* 3 *to* 26.

JUDGMENT

G. R. Majithia, J.

(1) The writ petitioners have challenged the order of the Director of Consolidation of Holdings Punjab Passed under section 42 of the East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948 (for short, hereinafter referred to as the Act) in this petition.

(2) The brief facts as unfolded in the writ petition are these. The petitioners are in possession of different Parcels of land under the Gram Panchayat (respondent No. 2). The land was described as *Shamlat* deh in the revenue record and owned by the Gram Panchayat. It was mutated in the name of the Gram Panchayat in the year 1956-57 under the provisions of Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the Village Common Lands Act).

(3) The right-holders of the village, including respondents No. 3 to 6, preferred a petition under section 42 of the Act before the Director of Consolidation of Holdings, Punjab, in August, 1985, contending that the land in dispute was *banjar qadim* and according to the entry in the *Wajib-ul-Arz* of the village it had to be apportioned among the proprietors and *Khewatdars* of the village *pro rata* of

their holdings in the revenue estate; that the Director of Consolidation of Holdings had no jurisdiction to hold that the land in dispute vested in the Gram Panchayat and was liable to be partitioned among the proprietors; that the petition had been filed after a lapse of 25 years; no petition under section 42 of the Act could be filed challenging the title of the Gram Panchayat over the land in dispute and the proper remedy lay under section 11 of the Punjab Village Common Lands (Regulation) Act, and that the Collector was the proper authority to decide whether the land vested in the Gram Panchayat or not.

(4) Respondents No. 3 to 26 who are the proprietors filed a joint written statement. They controverted the allegations made by the petitioners in the writ petition and averred that the disputed land was described in the Record of rights prior to consolidation as *banjar* and *banjar qadim* in the individual cultivating possession of the *Khewatdars,* and in the column of cultivation it was recorded as in possession of Malkan (owners) while in the column pertaining to assessment it was recorded as *bila lagan bawajah kabza sab ka hissedari* (without payment of rent being in possession of co-sharers); that it could not vest in the Gram Panchayat and the Director of Consolidation of Holdings was perfectly justified to partition the land as per rules on the basis of entries in the *Wajib-ul-arz* and there there was no bar of limitation to a petition under section 42 of the Act when the re-partition and the scheme has been challenged.

(5) The Gram Panchayat-respondent, through its Sarpanch, filed an affidavit dated April 25, 1986, in which the allegation that the order of the Director of Consolidation of Holdings was passed in favour of the proprietors in collusion with the Sarpanch, Gram Panchayat, was denied, and it was urged that the Gram Panchayat had challenged the order of the Director of Consolidation "through CWP No. 147/1986 titled as Gram Panchayat, Akar *vs.* Director, Consolidation of Holdings, Punjab, Chandigarh and 24 others."

(6) Respondents No. 3 to 26 through C.M. No. 2116/87 sought vacation of the stay order granted in favour of the writ petitioners and placed on record a copy of the order passed by a Bench of this Court in CWP No. 147/1986 (supra) dismissing the writ petition filed by the Gram Panchayat. The order of the Bench of this Court was upheld by the Supreme Court of India in Special Leave Petition filed by the Gram Panchayat.

(7) The writ petitioners filed reply to C.M. No. 2116/87 (supra). They did not dispute the facts mentioned by the right-holders in the civil miscellaneous but the gravamen of the charge was that the Sarpanch was in collusion with the right-holders and he was not protecting the interests of the Gram Panchayat.

(8) Mr. P. K. Palli, the learned Senior Advocate, made the following submissions:—

(a) that the land vested in the Gram Panchayat under the Village Common Lands Act. The land which once vested in the Gram Panchayat could not be divested;

(b) that the Director of Consolidation of Holdings had no jurisdiction to entertain the petition under section 42 of the Act as it was time-barred;

(c) that the petitioners were not made parties, i.e., respondents to the petition under section 42 of the Act; so, the order passed at their back stands vitiated.

(9) The learned counsel draw our attention to section 2(g) of the Village Common Lands Act which reads as under:—

"2(g) 'shamilat deh' includes—

(1) lands described in the revenue records as Shamilat Deh excluding abadi deh;

(2) shamilat tikkas;

(3) lands described in the revenue records as shamilat tarafs, patties, pannas and tholas and used according to revenue records for the benefit of the village community or a part thereof or for common purposes of the village;

(4) lands used or reserved for the benefit of village community including streets, lanes, playgrounds, schools, drinking wells or ponds within abadi deh or gorah deh, and

(5) lands in any village described as *banjar qadim* and used for common purposes of the village according to revenue records:

but does not include land which—

(i) * * *

(ii) has been allotted on quasi-permanent basis to a displaced person;

(iii) has been partitioned and brought under cultivation by individual landholders before the 26th January, 1950;

(iv) having been acquired before the 26th January, 1950, by a person by purchase or in exchange for proprietary land from a co-sharer in the shamilat deh and is so recorded in the jamabandi or is supported by a valid deed and is not in excess of the share of the co-sharer in the shamilat deh;

(v) is described in the revenue records as shamilat taraf, patti, panna or thola and not used according to revenue records for the benefit of the village community or a part thereof or for common purposes of the village;

(vi) lies outside the abadi deh and was being used as gitwar, bara, manure pit, a house or for cottage industry immediately before the commencement of this Act;

(vii) * * *

(viii) was shamilat deh, was assessed to land revenue and has been in the individual cultivating possession of co-sharers not being in excess of their respective shares in such shamilat deh on or before the 26th January, 1950; or

(ix) was being used as a place of worship or for purposes subservient thereto immediately before the commencement of this Act;

(h) 'Shamilat law' means—

(i) in relation to land situated in the territory which immediately before the 1st November, 1956, was comprised in the State of Punjab, the Punjab Village Common Lands (Regulation) Act, 1953; or

(ii) in relation to land situated in the territory which immediately before the 1st November, 1956, was compromised in the State of Patiala and East Punjab States Union, the Pepsu Village Common Lands (Regulation) Act, 1954;

(iii) 'State Government' means the Government of the State of Punjab."

A reading of the definition of *shamilat deh* contained in section 2(g) of the Village Common Lands Act clearly shows that the land in dispute does not come within the ambit of *shamilat deh.* It is not described in the revenue records as *Shamilat deh.* The writ-petitioners have not placed any material on record to enable us to draw an inference that the land was recorded as *shamilat deh* in the Record of rights or was described as *banjar qadim* and used for common purposes of the village prior to consolidation. Even otherwise, in the scheme of consolidation there existed adequate *shamilat deh* land for common purposes, including the purpose of the Gram Panchayat. The excess land secured from the proprietors by imposing a *pro rata* cut deserves to be redistributed among the proprietors in accordance with their rights.

(10) Rule 16(ii) of the East Punjab Holdings Consolidation and Prevention of Fragmentation Rules, 1949 may be noticed:—

"In an estate or estates, where during consolidation proceedings there is no Shamlat Deh land or such land is considered inadequate, land shall be reserved for the Village Panchayat and for other common purposes, under section 18(c) of the Act out of the common pool of the village at the scale given in the schedule to these rules. Proprietary rights in respect of land so reserved (except the area reserved from the extension of abadi of proprietors and non-proprietors) shall vest in the proprietary body of estate or estates concerned and it shall be entered in the column of ownership of record of rights as *Jumla Malkan Wa Digar Hakdaran Arazi Hasab Rasad.* The management of such land shall be done by the Panchayat of the estate or estates concerned on behalf of the village proprietary body and the Panchayat shall have the right to utilise the income derived from the land so reserved for the common needs and benefits of the estate or estates concerned."

If land was deducted from the holdings of the proprietors, the same was illegal and contrary to the provisions of rule 16(ii) of the Rules, and had to be restored to them. The Director of Consolidation after a perusal of the revenue record arrived at the following finding:—

"I had heard the parties in detail in this case on 28th November, 1985 at Patiala and the orders were reserved. The records were also examined. From the record it is clear that the area 1396 bighas—7 biswas was mostly Banjar and Banjar Qadim and was in the individual possession of the *khewatdars* as, according to the entries in the jamabandi in the cultivation column, it was *Maqbooza Malkan* and in the column pertaining to assessment to land revenue it is mentioned as Bile Lagaan *Mawaja Qabza Sabqa Hissedari*. From the record it has been observed that a number of rightholders including Shri Mangal Singh, etc. had got the area transferred to their proprietorship on the score of their possession,—*vide* mutation Nos. 376, 514 and 490 etc. The plea of the petitioners that mutation No. 386, transferring the land belonging to the petitioners in the name of the Gram Panchayat did not satisfy the ingredients of Section 2(g) of the Village Common Lands Act and, as such, could not be transferred in the name of the Gram Panchayat. The learned counsel for the petitioners also pointed out that according to citation 1977 PLJ 276, this land could not be transferred to the name of the Gram Panchayat as this area was not in use for common purposes. The learned counsel for the respondent (Gram Panchayat) could not rebut the pleas taken up by the learned counsel for the petitioners. It is admitted by the respondent Gram Panchayat that the area which is liable to be distributed was originally entered as *Shamlat deh Hassab Rasad Zer Khewat* and, in the cultivation column, it is entered as *Maqbooza Malkan*. Evidently, it was not used for common purposes. That being so, the area which was not being used for common purposes, could not be transferred to the name of the Gram Panchayat under section 2(g) of the Village Common Lands Act and the consolidation authorities had no right or power to change the title of the land. They should have kept this area in the name of *Shamlat Deh Hassab Rasad Zar Khewat* and, in the cultivation column, it should have been entered as

Maqbooza Malkan. The consolidation authorities had further no jurisdiction to break the possessions of the individual *Ghair-Morrowsis* who were in possession of the *Shamlat Deh Hassab Rasad Zer Khewat.* Mutation No. 386 is certainly illegal as it was not sanctioned under any specific authority nor it was done in accordance with the law. From the record, it is clear that the total area reserved for the Gram Panchayat in the consolidation scheme is 38 K—18 M and the Panchayat was not entitled to anything more than this. The provisions of the scheme are sacrosanct. The rest of the area shall have to be restored to the *Shamlat Deh Hassab Rasad Zer Khewat* as per the original record inherited by the Consolidation Department. Since the revenue record is inherited by the Consolidation Department indicating this area to be *Shamlat Deh Hassab Rasad Zer Khewat,* the plea of the petitioners that this should be distributed amongst the shareholders cannot be resisted on any valid ground. That being so, the area measuring 2263 K—16 M but excluding area used for common purposes during consolidation proceedings should be distributed amongst the share-holders as per provisions contained in the jamabandi of 1951-52, which is the only authentic document inherited by the Consolidation Department. Since mutation No. 386 dated 12th June, 1956 is illegal and non-est and it cannot form the basis of conferring any right or title, it has to be ignored and is ignored accordingly."

No material has been placed before us to hold that the finding arrived at by the Director, Consolidation of Holdings, on an appraisal of the revenue record is vitiated. We do not find any infirmity or illegality in the order of the Director of Consolidation of Holdings holding that the land is not *Shamlat deh.* Resultantly, it did not vest in the Panchayat. Moreover, the *banjar* and *banjar qadim* land will be deemed to be in possession of the owners till the contrary is proved. The land was in possession of the proprietors as per their shares in the *Khewat.* Apart from this, an error of law which is apparent on the face of record can be corrected by a writ, but not an error of fact, however, grave it may appear to be. In this connection, the observations of the Supreme Court in *Syed Yakoob* v. *K. S. Radhakrishnan and others* (1), are very relevant. Their Lordships

(1) A.I.R. 1964 S.C. 477.

of the Supreme Court, while dealing with this question, were pleased to observe as under:—

> "In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which had influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of face recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequancy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised [*vide Hari Vishnu Kamath* v. *Ahmad Ishaque*, 1955-1 SCR 1104, : (S) AIR 1955 SC 233] *Nagendra Nath* v. *Commr. of Hills Division*, 1958 *SCR* 1240: (A.I.R. 1958 SC 398) and *Kaushalya Devi* v. *Bachittar Singh, A.I.R.* 1960 SC 1168."

There is yet another aspect of the matter to which a brief reference has to be made. Section 11 of the Village Common Lands Act, envisages that a person claiming a right, title or interest to any land vested or deemed to have vested in the Panchayat under the Act can submit to the Collector, within such time as may be prescribed, a statement of his claim in writing, signed and verified in the manner prescribed, and the Collector shall have jurisdiction to decide such claim. The order passed by the Collector is appealable before the Commissioner. A complete machinery is provided to adjudicate the rights of a person who asserts whether a particular land vests or does not vest in the Panchayat. The petitioners could have availed themselves of the remedy open under section 11 of the Act, but no grouse can be made against the order passed by the Director, Consolidation of Holdings, in these proceedings unless they were able to bring the case within the four corners

of the dictum of the Appex Court in *Sayed Yakoob's case* (supra). The first submission of Mr. Palli is, thus, rejected.

(11) The next submission of Mr. Palli does not hold good in view of the authoritative pronouncement of the Full Bench of this Court reported as *Jagtar Singh* vs. *Additional Director of Consolidation of Holdings* (2). In the present case, the right-holders had not challenged any order of the consolidation authorities but had attacked the validity of the scheme and the re-partition, and the bar of limitation of six months under rule 18 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949, is not attracted to the facts of the instant case.

(12) Mr. Palli next submitted that the impugned order is vitiated because the petitioners were not afforded any opportunity of hearing before the passing of the order. In support of this submission, he relied upon the following authorities:—

(i) *Narinder Nath Sachdeva* vs. *Bhajan Lal* (3).

(ii) *Gram Panchayat of Village Serohi Behali* vs. *Har Lal* (4).

(*iii*) *Ajit Singh* vs. *Smt. Subaghan* (5).

These authorities have no bearing to the facts of the instant case. The dispute before the Director of Consolidation (Holdings) was between the proprietors and the Panchayat. They had no right to be impleaded as a party/respondent. They got the property on an annual leave from the Panchayat. If the Panchayat rights were in jeopardy it could defend them. The person who had got the property on lease for a year has no right or *locus standi* to become a party to those proceedings. This matter is not *res integra*. It directly came up for consideration in (*Nek Singh and others* vs. *State of Punjab through Additional Director, Consolidation of Holdings and others*) (6), whereas Division Bench of this Court in somewhat similar circumstances, held as under:—

"As regards the petitioners not having been made parties to the petition under section 42 of the Act, it may be

(2) 1984 P.L.J. 222.
(3) 1982 P.L.J. 243.
(4) 1971 P.L.R. 1009.
(5) A.I.R. 1970 Pb. and Hry. 93.
(6) CWP 2820/1986 decided on August 12, 1986.

observed that the petitioners had no right to be impleaded as respondents to the petition in question. The matter was between the proprietors the Gram Panchayat."

In CWP No. 2820/1986 (supra), the facts were almost identical as in the present case. The writ-petitioners who claimed themselves to be lessees under the Gram Panchayat challenged the order of the Additional Director, Consolidation of Holdings, whereby in exercise of the powers under section 42 of the Act, he directed the Consolidation Officer to re-distribute the land *pro rata* among the propriators which was deducted for a common purpose. The view taken by the Bench appears to be correct. We fully agree with the reasoning adopted by the Bench.

(13) Apart from this, the petitioners could have approached the Director of Consolidation for passing a fresh order after affording them an opportunity of hearing. In *Shivdeo Singh and others* vs. *State of Punjab and others* (7), the Supreme Court held as under:—

"Learned counsel contends that Art. 226 of the Constitution does not confer any power on the High Court to review its own order and, therefore, the second order of Khosla, J., was without jurisdiction. It is sufficient to say that there is nothing in Art. 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. Here the previous order of Khosla, J., affected the interest of persons who were not made parties to the proceedings before him. It was at their instance and for giving them a hearing that Khosla, J., entertained the second petition. In doing so, he merely did what the principles of natural justice required him to do. It is said that the respondents before us had no right to apply for review because they were not parties to the previous proceedings. As we have already pointed out, it is precisely because they were not made parties to the previous proceedings, though their interests were sought to be affected by the decision of the High Court, that the second application was entertained by Khosla, J."

These observations, though relate to the courts, may on general principles equally apply to judicial and quasi-judicial tribunals.

(7) A.I.R. 1963 S.C. 1909.

The inherent powers of relieving the suitors from the mistake of courts/tribunals may legitimately be invoked for promoting the cause of justice.

(14) The petitioners got the property for cultivation in auction for a year. They had a right to remain in possession for the auctioned period. After the expiry of the period, they were unauthorised occupants and had to surrender possession to the Gram Panchayat.

(15) The writ petition is dismissed. However, we leave the parties to bear their own costs.

(16) C.M. No. 2372 of 1987 is allowed. The other C.M. Nos. 2116, 2371 and 2906 of 1987 and 5230 of 1988 are rendered infructuous in view of our decision in the main case.

S.C.K.

Before Jai Singh Sekhon, J.

KULWINDER SINGH,—*Petitioner.*

versus

M/S PINDI PAINTS AND ANOTHER,—*Respondents.*

Civil Revision No. 1272 *of* 1988

August 24, 1988.

Code of Civil Procedure (V of 1908)—O. 6, Rl. 17—Firm sued through Manager—Manager also a defendant—Application to amend plaint—Amendment to incorporate the plea that Manager took loan on behalf of the firm—Leave also sought to implead partners of the firm—Application made within three years of the advancement of loan—Such amendment—Whether introduces a new cause of action.

Held, that no doubt, the plaint having been loosely drafted, it is not specifically mentioned that the loan was taken by the firm through its Manager but the plaint when read as a whole clearly reveals by implication that the loan was advanced to the firm through its Manager as in that case only the Manager of the firm would have been arraigned as defendant. Thus, both the proposed amendments regarding the arraying of the partners of the firm and depicting that the loan having been advanced through manager of the firm would not amount to introducing new cause of action or displacing the case of the defendants altogether.

(Para 4)