
NAK Engineering Company Pvt. Ltd. Vs. Tarun Keshrichand Shah and Ors.

Facts of the case:

The case of NAK Engineering Company Pvt. Ltd. vs. Tarun Keshrichand Shah & Others arose out of a civil suit that the respondents filed in 2007 before the City Civil Court, Mumbai, for the recovery of unpaid service charges pertaining to furniture and fixtures in a commercial property in Churchgate House. This suit was filed against M/s Kishore Engineering Company, a partnership firm operating in the aforementioned premises. The defendant partnership firm did not turn up despite service of summons, and the suit became ex-parte. In 2018, NAK Engineering Company attempted to implead itself as a defendant, as a successor to the partnership firm. This application was granted by the Trial Court but eventually overturned by the Bombay High Court, giving rise to the current appeal before the Supreme Court.

Core Issues

The Supreme Court was mainly required to decide on the following:

1. Whether NAK Engineering Company Pvt. Ltd. was a “necessary party” or a “proper party” to the suit under Order I Rule 10 of the Code of Civil Procedure, 1908 to be impleaded as the defendant; and
2. Whether the High Court was Wrong in Annuling the Order of the Trial Court Allowing it to Implead by virtue of the Supervisory Jurisdiction issued under Article 227 of the Constitution.

Arguments by Plaintiff

NAK Engineering claimed itself to be the legal successor of the M/s Kishore Engineering Company and has also been carrying on business at the same office by paying service charges. It pleaded that it would be directly affected by the final decree in the suit and therefore its presence was necessary for the effective decision in the suit. Further, the appellant claimed that the Trial Court was right in exercising discretion for impleading the appellant as a party and that the decision of the High Court was therefore wrong.

Arguments by Defendants

The respondents claimed that they were the dominus litis in this suit and that they cannot be forced to sue a defendant against which they have no cause of action. The suit was only a recovery suit and that it can be finalized without the presence of NAK Engineering in court. It was also claimed that there was no proof of legal succession by the appellant from the partnership firm and that incorporation of a company does not by itself prove succession of liability. The delay on the part of the appellant in seeking impleading was also highlighted by them.

Judgement by Supreme Court

The Supreme Court dismissed the appeal and maintained the High Court's verdict. It was declared that NAK Engineering was not a necessary or proper party to the suit, as an efficacious decree could still be passed without the participation of NAK Engineering. The dominus litis rule was reiterated, as it held that the apprehension of liability, as well as commercial interest, cannot be a reason for impleading a person in a suit. Further, the court asserted that the decree passed in the suit would not affect NAK Engineering.

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