Vinay Eknath Lad vs Chiu Mao Chen on 18 December, 2019

Equivalent citations: AIRONLINE 2019 SC 1922

Author: Aniruddha Bose

Bench: Aniruddha Bose, Deepak Gupta

NON REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4726 OF 2010

VINAY EKNATH LAD ….....APPELLANT

VERSUS

CHIU MAO CHEN ….....RESPONDENT

JUDGMENT

ANIRUDDHA BOSE, J.

The appellant before us is the owner of a premises comprising of a shop room, numbered 3 in the ground floor of Sabari Complex, Residency Road, Richmond Town, Bengaluru 560025. This premises is the subject of dispute in this appeal. The suit, out of which this appeal arises, was instituted by "Sri Sabari Corporation" styled as a co- ownership firm comprising of seventeen individuals. All these individuals were also described as plaintiffs (a) to (q) in the suit in the capacity of co-owners. They shall be referred to later in this judgment as the "original plaintiffs". The mother of the sole respondent was inducted as the lessee of the subject-premises on 10 th May, 1978. At that point of time, the owner of the premises was a partnership firm with the same trade name. Admitted position is that on his mother's death in the year 1996, the respondent became the tenant of the subject premises. The original plaintiffs through their learned Advocates issued a notice terminating the lease in terms of Section 106 of the Transfer of Property Act on 25/27th September, 2006. In this notice, the nature of occupation has been interchangeably used as "tenancy" and "lease", but that factor is not of much significance for determining the rights of the parties in this appeal. The suit was instituted in the Court of the XII City Civil Judge, Bangalore on 15th November 2006 claiming, inter-alia, delivery of vacant possession of the subject premises and mesne profit. We shall subsequently refer to the respondent as defendant. The original plaintiffs claim to have had derived their right, title and interest to the subject premises from the partnership firm after its dissolution. It has been contended on their behalf that some of them are the erstwhile partners and others are their relatives and they came to own the subject premises as residue property in accordance with Section 48 of the Indian Partnership Act, 1932. The Trial Court decreed the suit for possession as

well as mesne profit from the date of service of notice of termination. The defendant was given six months' time to vacate the subject-premises. The defendant, however, was successful in his appeal before the High Court and the judgment of the Trial Court was reversed. The present appellant is the successor-in-interest of the seventeen individuals who had instituted the suit in the name of joint proprietary firm. This appellant claims to have had purchased the subject premises from the original owners. His substitution in this appeal was allowed by this Court by an order passed on 7th January, 2010.

2. The main question which arises for determination in this appeal is as to whether the original plaintiffs had the locus to institute the suit or not. The suit was resisted by the defendant on the ground that the said plaintiffs could not have had terminated the tenancy as they did not have jural relationship with the defendant to initiate the action. It has been urged in support of this contention that there was no attornment in this case and no public notice was issued on dissolution of the firm as per the provisions of Section 45(1) of the 1932 Act. The original plaintiffs' stand on devolution of the subject premises has been contested by the defendant. It is his contention that if the devolution came through at all, the process of such devolution was through conveyance of immovable property but without effecting registration on payment of proper stamp duty. Learned counsel for the defendant submitted that for this reason, the instruments through which such devolution is sought to be established ought not to be taken cognizance of in a judicial proceeding. The other issues which have been raised are ancillary to this main question. Before we proceed to examine this question of law, we shall have to refer to certain facts from which the present controversy originates. At the time the lease was created, the partnership firm comprised of seven partners and a minor beneficiary. The original lease was for five years. The arrangement however continued even after lapse of the five year period. The defendant continued in possession on paying rent and the plaintiffs' case before the Trial Court has been that the defendant had remained in the subject-premises as a tenant. According to the plaintiffs, the firm stood dissolved with effect from 7th December, 1978.

3. In the plaint, there is no specific pleading showing the manner in which the plaintiffs derived title or interest to the subject-premises. The defendant contested the suit by filing written statement. Proper service of termination notice was also denied and certain other points were raised, but the suit was mainly contested on the issue of lack of jural relationship between the original plaintiffs and defendant.

4. The Trial Court, upon going through a Deed of Co- ownership, marked as exhibit "P-5" came to the finding that there was no transfer of the subject-premises to any third party. This instrument carries the title "CO-OWNERSHIP DEED OF SRI SABARI CORPORATION: BANGALORE – AGREEMENT DECLARING INDIVIDUAL INTEREST IN CO- OWNERSHIP PROPERTY" and is dated 5th May 2007. The Trial Court found formation of the co-ownership to be only a family arrangement. Finding of the Trial Court on the issue of attornment of tenancy was that such exercise would have been required in case there was transfer of property but constitution of co-ownership was on the basis of mutual understanding among the erstwhile partners and their relatives. The Trial Court also held that the defendant was aware of Sri Sabari Corporation coming into existence as a co-ownership concern from a notice issued by the plaintiffs to the defendant in the year 2004.

We shall deal with this aspect of the controversy in subsequent paragraphs of this judgment.

5. The case run by the plaintiffs before the Trial Court was that the partnership firm stood dissolved with effect from 7 th December, 1978. The notice of the dissolution of the firm, however, was given to the Registrar of Firms on 7 th June, 1995. After dissolution of the firm, an agreement was entered into among the erstwhile partners and their family members and some of the family members of the erstwhile partners were recognised as co-owners of the properties of the dissolved partnership firm and a delineated portion of the property of the firm was given to the co-owners. An agreement was registered as co-ownership agreement. The subject premises comes within the scope of the assets given to the co-owners. In the intervening period, mother of the defendant passed away and the defendant was allowed to continue as the tenant. Before the Trial Court, dispute was raised as to whether the notice of termination was properly served or not. The defendant however had replied to the notice of termination on 29 th November, 2006 casting doubt on locus of the individuals on whose behalf the notice to terminate the tenancy was issued. The same defence has been taken in written statement to the suit. As regards service of the termination notice, the Trial Court on fact did not find any defect on service of the notice.

6. In appeal by the defendant, the High Court reversed the finding on the point of locus of the original plaintiffs. It was held by the High Court :-

> "13.Sabari Corporation was registered as per Ex.P1. Seven partners were its partners for the purpose of its business and if they had to dissolve, the plaintiffs should have taken pleadings in their suit. No such pleadings have been taken in the plaint. After the dissolution of the firm, the property of the firm has been devolved as it is stated by the plaintiff by its members of the partnership firm. From the registration of the firm as per Ex.P1, 7 persons were partners however there are as many as 18 plaintiffs who represent the Co-ownership. On the dissolution of the firm, its business cease to operate and in case of transfer of its properties of its partners, there should have been pleading in the plaint. Nature of partition among the partners and how these strangers have come into picture as the co-owners of the properties of the partnership firm should have been narrated. It is the contention of the defendant that u/a 40-C of the Karnataka Stamp Act, while the property is being partitioned among strangers, there shall have been stamp duty paid to the Government. In the instant case, no such thing has been done. In response to the same, the respondents counsel submitted that no transfer has been effected by virtue of the dissolution of the firm and what has been done is only a partition of the partnership property among its members and the newcomers are their brothers, sons and wives of the partners. Under Section 243 of the Indian Contract Act, widow or child of deceased partner receive share out of the profits is not a partner. In view of the said provision while transferring the property of the partnership firm to the non partners of the firm, it is nothing but conveyance for which necessary stamp duty should have been paid. However, there is no such things coming out from the plaint. Hence it is held that the partnership firm has not properly conveyed its properties on the plaintiffs through the procedure known to law. The court below has framed issues relating to jural

relationship. The Trial Court came to the conclusion that partition of the firm's property is only a family arrangement and there is no transfer of any right, title or interest in favour of the third parties. It is only an internal arrangement made by co-owners of the Sabari Corporation. It is further referred that legal notice Ex.P9 was issued in the name of co-owners of the property and the defendant has been paying rent to the plaintiff continuously. Therefore, the plaintiffs have been declared as landlords of the suit schedule property and the defendant is the tenant. In view of the fact that the court has held that there is no transfer of property, application of attornment of tenancy was also denied. The court has not answered the question raised in respect of the jural relationship between the parties. When the lease agreement entered into between the parties is Sabari Corporation partnership firm with the defendant's mother and till the filing of the suit, the existence of Sabari Corporation, co- ownership has not been declared and no notice was issued to the defendant or even to the public and exhibits referred above show the name of Sabari Corporation as a firm. Therefore, | am of the view that the court below has not properly answered the question of jural relationship properly.

14. Consequent upon the dissolution of the partnership firm, the partners should have issued notice to the public and also to the persons who involved in the business of the partnership firm.

Notice u/s 45(v) of the Partnership Act will help the third parties that the firm who had no notice of dissolution and on the other it also seeks to protect the partners of a dissolved firm from liability to third parties for acts of the other partners subsequent to dissolution. Post dissolution activities of the partners and its business will cease to affect by virtue of the dissolution. In such case, where notice is issued, it made clear to the public and also to the customers for the purpose of their transactions. In the instant case, no notice has been produced by the plaintiff and no averment to substantiate this dissolution has been made. In view of the above, the plaintiffs have no legal authority to pose themselves as Co-ownership of Sabari Corporation. As it already referred, the LRs. cannot become the part of the partnership firm. At the most, they are entitled for the profits and benefit out of it. Without assigning proper reasons the court below has held that the Sabari Corporation, a partnership firm has been transferred into co-ownership firm, hence the plaintiffs have got legal right to file the suit. Hence the said finding of the Trial Court on issue No.1 is not proper. Accordingly Point No.1 is answered in the negative."

7. The High Court had sustained the plea of the defendant that there was improper stamping of the deed of co-ownership. The defendant's case on this point has been that birth of the co-ownership firm was not on the basis of distribution of assets after dissolution of a partnership firm but there was conveyance of the assets of the firm. For this purpose, registration of the instrument of conveyance on proper payment of stamp duty was not effected. The High Court accepted the defendant's stand that the plaintiffs could not establish their locus standi to institute suit for recovery of possession. Finding of the High Court on this count is that the property of the partnership firm, on dissolution, stood partitioned among seventeen persons, including persons who were not members of the firm. On the question of proper issue of the termination notice as

contemplated in Section 106 of the Transfer of Property Act, the finding of the Trial Court has not been upset by the High Court. The judgment under appeal does not deal with this point.

8. We accept the plaintiffs' stand that the principle of estoppel bars a tenant from questioning the title landlords. This is incorporated in Section 116 of the Evidence Act. But this principle cannot be made applicable in the present case straightaway as the main defence set up by the tenant is that he had acknowledged the said partnership firm as the landlord but questioned the locus standi of the plaintiffs, who operated under the same trade name. In absence of attornment or public notice of dissolution, the defendant had no way of having knowledge of change of landlord of the subject-premises from partnership firm to a co- ownership concern. The co-ownership firm admittedly was not the defendant's landlord at the time of commencement of the lease. Thus, identity of the landlord stood altered, though the seventeen individuals continued to operate under the same trade name. For this reason, the very fact that rent was continued to be paid to Sri Sabari Corporation cannot constitute acceptance of the original plaintiffs as the landlord by the defendant. On the question of attornment, learned counsel for the appellants have argued before us that title could be acquired in terms of Section 109 of the Transfer of Property Act and in such a situation, attornment would not be necessary. The said provision reads:-

> 109. Rights of lessor's transferee.--If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee, in the absence of a contract to the contrary, shall possess all the rights, and, if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it; but the lessor shall not, by reason only of such transfer cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him:
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> Provided that the transferee is not entitled to arrears of rent due before the transfer, and that, if the lessee, not having reason to believe that such transfer has been made, pays rent to the lessor, the lessee shall not be liable to pay such rent over again to the transferee.
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> The lessor, the transferee and the lessee may determine what proportion of the premium or rent reserved by the lease is payable in respect of the part so transferred, and, in case they disagree, such determination may be made by any Court having jurisdiction to entertain a suit for the possession of the property leased."

9. It has been held by a two Judge bench of this Court in the case of Bismillah Be(Dead) by Legal Representatives Vs. Majeed Shah 2017 2 SCC 274:-

> "24. Law relating to derivative title of the landlord (Lessor) and challenge, if made, to such title by the tenant (Lessee) during subsistence of tenancy in relation to demised property is fairly well settled. Though by virtue of Section 116 of the Evidence Act, 1872, the tenant is estopped from challenging the title of his landlord during continuance of the tenancy, yet the tenant/lessee is entitled to challenge the

> derivative title of an Assignee/Vendee of the original landlord (Lessor) of the demised property in an action brought by the Assignee/Vendee against the tenant for his eviction from the demised property under the Rent laws.

This right of a tenant is, however, subject to one caveat that the tenant/lessee has not attorned to the Assignee/Vendee. In other words, if the tenant/lessee pays rent to the Assignee/Vendee of the tenanted property then it results in creation of an attornment between the parties which, in turn, deprives the tenant/lessee to challenge the derivative title of an Assignee/Vendee in the proceedings." This authority has been followed in a later case, Appollo Zipper India Limited Vs. W. Newman and Company Limited [(2018) 6 SCC 744]. It has been held in this case:-

> "42... Similarly, the law relating to derivative title to the landlord and when the tenant challenges it during subsistence of his tenancy in relation to the demised property is also fairly well settled. Though by virtue of Section 116 of the Evidence Act, the tenant is estopped from challenging the title of his landlord, yet the tenant is entitled to challenge the derivative title of an assignee of the original landlord of the demised property in an action brought by the assignee against the tenant for his eviction under the rent laws. However, this right of a tenant is subject to one caveat that the tenant has not attorned to the assignee. If the tenant pays rent to the assignee or otherwise accepts the assignee's title over the demised property, then it results in creation of the attornment which, in turn, deprives the tenant to challenge the derivative title of the landlord."

10. The defendant's stand on this point is that since it continued to pay rent in favour of the same landlord by the same trade name, notice of the change of ownership cannot be attributed to him. On this count, argument has been advanced on behalf of the original plaintiffs before the Trial Court that on 17th May, 2004 a termination notice was issued to the defendant by them. Though the said notice was not ultimately given effect to, the defendant from the said notice must have had acquired knowledge of plaintiffs having become owner of the subject premises. This issue has been dealt with by the Trial Court in Paragraph 11 of the judgment in the following manner:-

> "11.....The plaintiff has also produced Xerox copy of notice dated 17.5.2004 issued to defendant by the present plaintiffs. Issue of this notice has been admitted by the Defendant herein. On perusal of this notice, which is not marked, however not denied by the defendant, it clearly goes to show that it was brought to the notice of the defendant in the year 2004 itself, that Sri Sabari Corporation came to be converted into a co-ownership concerned and all the names of plaintiffs herein are mentioned in the said notice. Therefore, now the defendant cannot contend that he is not aware of formation of Sri Sabari Co-ownership. The learned counsel for the plaintiff also argued that Sri Sabari Corporation partnership firm came to be dissolved and notice of the same was recorded on 7.6.1985 with effect from 7.12.1978 as per form No.A.1, issued by the Registrar of Firm as per Ex.P-6. It is not denied by the Defendant. Therefore, it is clear that Sri Sabari Corporation came to be dissolved with effect from 7.12.1978 and the notice of the same was given to the concerned authority. The names

> of 7 partners are mentioned in Ex.P-8 and after dissolution of the partnership firm, a co-ownership was constitute.

Therefore, there is no question of transfer of any right, title or interest over the schedule property to others. Because it is only an internal arrangement. Therefore, for the reasons stated above, I am of the opinion that the plaintiffs are entitled to recover possession of schedule premises from the defendant and hence, my findings on issue No.3 is also in the affirmative." (quoted verbatim)

11. The receipt of the notice dated 17 th May, 2004 has been accepted by the defendant in paragraph 7 of his written statement in the following terms:-

> "7. The defendant humbly submits that on an earlier occasion namely on 17 th May 2004 Sri Sabari Corporation has attempted to terminate the tenancy, defendant's mother opposed the termination notice. Thereafter Sri Sabari Corporation has demanded a sum of Rs.2,00,000/- (as additional advance) from defendant, since there was a threat of eviction, defendant has paid of sum of Rs.2,00,000/- (Rs.Two lakhs) to Sri Sabari Corporation. After receiving a sum of Rs.2,00,000/- from the defendant Sri Sabari Corporation has withdrawn the notice dated 17th May, 2004, assured him that it will not terminate the tenancy and allowed him to continue to carry the business as per the agreement of lease dated 10.5.1978. On the assurance of the plaintiff that it will not terminate the tenancy, he has borrowed a sum of Rs.7,00,000/- and spent for the interiors as well as the furnitures in the schedule premises.

12. Plaintiffs' argument on law is that in an eviction suit, title need not to be proved in a manner required in a suit for declaration of title. On this count, the following passage from the case of Apollo Zipper (supra) has been cited:-

> "40... It is a settled principle of law laid down by this Court that in an eviction suit filed by the landlord against the tenant under the rent laws, when the issue of title over the tenanted premises is raised, the landlord is not expected to prove his title like what he is required to prove in a title suit." Two earlier authorities, Sheela vs. firm Prahlad rai Premm Prakash [(2002) 3 SCC 375] and Boorugu Mahadev & sons vs. Srigiri [(2016) 3 SCC 343] broadly lay down the same principle of law. It is not the law that in a landlord-tenant suit the landlord cannot be called upon at all to prove his ownership of a premises, but onus is not on him to establish perfect title of the suit property.

13. The other limb of defence of the tenant related to admissibility of Exhibit P5, which in substance is a modification instrument of an earlier co-ownership agreement of the year 1993. Exhibit P5 however, is a document that came into existence after the suit was instituted on 15th November, 2006. This document is dated 5th May, 2007. There is reference in this document to an earlier co-ownership agreement effected on 10 th March, 1993. The necessity of executing Exhibit P5 appears to be demise of two of the co-owners, who were parties to the aforesaid document of 1993

and their shares were transferred to their respective widows. But the suit cannot turn solely on the basis of this document. Neither this document per se establishes plaintiffs' ownership of the subject property.

14. The plaint, exhibits and deposition of the plaintiffs' witness do not adequately explain the journey of the subject premises from the erstwhile partnership firm, which had inducted mother of the present defendant as a tenant, to the seventeen individuals operating as a co-ownership firm. What has been argued on behalf of the appellant is that upon dissolution of the firm, there was sharing of residue assets thereof under Section 48 of the Partnership Act 1932 among the partners or their legal representatives. On the controversy of inadequate payment of stamp duty, it was argued on behalf of the appellant, relying on a decision of this Court in the case of S.V. Chandra Pandian Vs. S. V. Sivalinga Nadar (1993) 1 SCC 589 that in such cases of sharing of residual assets of a partnership firm, payment of stamp duty equivalent to that of transfer or conveyance of property is not necessary. It has been held in this case:-

> "16... From the foregoing discussion it seems clear to us that regardless of its character the property brought into stock of the firm or acquired by the firm during its subsistence for the purposes and in the course of the business of the firm shall constitute the property of the firm unless the contract between the partners provides otherwise. On the dissolution of the firm each partner becomes entitled to his share in the profits, if any, after the accounts are settled in accordance with Section 48 of the partnership Act. Thus in the entire asset of the firm all the partners have an interest albeit in proportion to their share and the residue, if any, after the settlement of accounts on dissolution would have to be divided among the partners in the same proportion in which they were entitled to a share in the profit. Thus during the subsistence of the partnership a partner would be entitled to a share in the profits and after its dissolution to a share in the residue, if any, on settlement of accounts. The mode of settlement of accounts set out in Section 48 clearly indicates that the partnership asset in its entirety must be converted into money and from the pool the disbursement has to be made as set out in clause
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> (a) and sub-clauses (i), (ii) and (iii) of clause (b) and thereafter if there is any residue that has to be divided among the partners in the proportions in which they were entitled to a share in the profits of the firm. So viewed, it becomes obvious that the residue would in the eye of the law be movable property i.e. cash, and hence distribution of the residue among the partners in proportion to their shares in the profits would not attract Section 17 of the Registration Act. Viewed from another angle it must be realised that since a partnership is not a legal entity but is only a compendious name each and every partner has a beneficial interest in the property of the firm even though he cannot lay a claim on any earmarked portion thereof as the same cannot be predicated. Therefore, when any property is allocated to him from the residue it cannot be said that he had only a definite limited interest in that property and that there is a transfer of the remaining interest in his favour within the meaning of Section 17 of the Registration Act.

Each and every partner of a firm has an undefined interest in each and every property of the firm and it is not possible to say unless the accounts are settled and the residue or surplus determined what would be the extent of the interest of each partner in the property. It is, however, clear that since no partner can claim a definite or earmarked interest in one or all of the properties of the firm because the interest is a fluctuating one depending on various factors, such as, the losses incurred by the firm, the advances made by the partners as distinguished from the capital brought in the firm, etc., it cannot be said, unless the accounts are settled in the manner indicated by Section 48 of the Partnership Act, what would be the residue which would ultimately be allocable to the partners. In that residue, which becomes divisible among the partners, every partner has an interest and when a particular property is allocated to a partner in proportion to his share in the profits of the firm, there is no partition or transfer taking place nor is there any extinguishment of interest of other partners in the allocated property in the sense of a transfer or extinguishment of interest under Section 17 of the Registration Act. Therefore, viewed from this angle also it seems clear to us that when a dissolution of the partnership takes place and the residue is distributed among the partners after settlement of accounts there is no partition, transfer or extinguishment of interest attracting Section 17 of the Registration Act."

15. The documents through which the plaintiffs claim to have come to own the property were not adequately stamped and for that reason, such document could not be relied upon. To this argument of the defendant, stand of the plaintiffs has been that once a document has been admitted without objection, in view of Section 35 of the Karnataka Stamp Act (a provision similar to Section 36 of the Indian Stamp Act 1899) such objection could not be taken at the appellate stage. The case of Dr. Chiranji Lal (D) (supra) Vs. Haridas 2005 SCC 746 was cited on behalf of the defendant. But we need not enter into this controversy while examining the rival claims in this appeal as the document which was effectively made exhibit and relied upon, is exhibit P5. This document came into existence after filing of the suit. We are to determine the position as it subsisted prior to the institution of the suit and existence of this document in isolation does not have any impact on the case of either of the parties.

16. An application, registered as I.A. No. 1/2009 has been taken out by the plaintiffs in connection with the present Civil Appeal, through which the appellant seeks to introduce to the present proceeding the following documents:-

(i) partnership deed dated 10.10.1975 constituting firm by Name Sri Sabari Corporation

(ii) Deed of dissolution dated 7.12.1978 dissolving the firm by name Sri Sabari Corporation.

(iii) Co-ownership agreement dated 7.12.1978

(iv) copy of registered agreement declaring interest in co- ownership property dated 19.3.1993

(v) Income Tax returns of V. Sivagupta wherein income from suit scheduled property is shown as HUF income.

(vi) Income Tax returns of S. Giridhar wherein income from suit scheduled property is shown as HUF income.

17. These documents, however, would have to be proved to enable the plaintiffs to show the journey path of the title of the subject premises. At this stage, we do not think we can enter into that exercise, which would call for proving of these documents. We have to examine the respective claims without reverting to the documents annexed to this application. The permission to file these documents was given by this Court on 16th January, 2009. Upon going through the application however we decline to permit the appellant to adduce fresh evidence before this Court at this stage of the proceeding.

18. Without the aid of these documents annexed to the aforesaid interlocutory application, the Trial Court found plaintiffs had established title superior to that of the tenant in respect of the subject premises. The Trial Court has proceeded on a principle akin to admission by the defendant of plaintiffs' position as that of the landlords of the subject-premises. That is the underlying reasoning of the Trial Court's judgment. According to the original plaintiffs, the defendant entered into negotiation with them, for which paragraph 7 of the written statement has been relied upon. The said notice of 2004, however, was not made exhibit. The High Court, in the judgment under appeal has not dealt with finding of the Trial Court on this aspect of the suit. This is a point which could have material impact on adjudication of the rival claims. We hold so because the defendant's defence on derivative title would not survive if the appellant can establish that from the notice of 17 th May 2004 the ownership of seventeen original plaintiffs could be established. In that event, Section 116 of the Evidence Act, 1872 would become applicable. The defendant's continued payment of rent thereafter would constitute acknowledging the said plaintiffs as his landlord. This would result in creation of attornment, as held in the cases of Bismilla Be (supra) and Apollo Zippers (supra). To conclude this part of the controversy, factual enquiry is necessary which the High Court exercising its appellate jurisdiction has not gone into.

19. We have already opined that sufficient material was not there before the first two Courts to establish the original plaintiffs' claim of ownership of the subject premises on the basis of a family arrangement after dissolution of the firm. The appellant's attempt to adduce additional documents to establish his stand on that point has been rejected by us at this stage. The ratio of the judgment in the case of S.V.Chandra Pandian (supra) cannot be applied in the present proceeding as there is no material before us from which we could conclude that the original plaintiffs' title to the subject-premises came from residue assets of the dissolved firm. In a landlord-tenant suit, the landlord is not required to prove his title in the subject property as in a title-suit. But when the landlord's derivative title is challenged, the same has to be established in some form. On this point the original plaintiffs have failed before the first two Courts.

20. In such circumstances, for the reasons already indicated, we set aside the judgment under appeal and remand the matter to the High Court for readjudicating the rival claims and defence.

Before the High Court the appellant shall be at liberty to file appropriate application for producing additional evidence and if such an application is filed, the same shall be considered on its own merit.

21. Since substantial time has lapsed after the suit was instituted, we request the High Court to decide the appeal on remand as expeditiously as possible. The appeal stands allowed in the above terms. As we are remanding the matter, we do not consider it necessary to make a detailed analysis of title of the original plaintiffs or their successor.

……..J. (Deepak Gupta) New Delhi, Dated: December 18, 2019
.....J. (Aniruddha Bose)