

Applying the exception to the present scenario, there is sufficient doubt with regard to conduct of power minister in issuing notifications. Therefore there is a definite suspicion of irregularity which render doctrine of indoor management inapplicable to the present case.

Conclusion

It is analysed the rule laid down in the *Turquand* case and its evolution through English and Indian case law. The rule which later came to be known as the doctrine of indoor management was carved out so as to prevent the doctrine of

constructive notice, used by companies to their advantage, from becoming an impediment to trade and commerce as otherwise third parties would be seriously affected if constructive notice was applicable in all cases. However, the doctrine of indoor management cannot also be applied over-extensively. In absence, a harmonious balance has to be maintained so as to promote business transactions between the company and third parties. Thus the doctrine of indoor management cannot give validity to a transaction where there is no authority; it can only apply as an exception to the doctrine of constructive notice as mentioned above.

A CRITICAL STUDY – IMPEADMENT OF LEGAL REPRESENTATIVES ORDER 22(5) V/S-Ā-V/S SECTION 2(11) CPC

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Whether legatees under a will can represent the estate of the deceased executor or DHR and can be impleaded.

There appears to be a considerable controversy with regard to the impleadment of legal representatives based on the will and the Law on the subject is not uniform among the decisions of the several High Courts covered by :

1. 1998 (2) ALD 296; 2. 1994 (4) An. WR 248; 3. AIR 1994 Raj. 31; 4. AIR 1981 Ori. 63; 5. AIR 1988 P&H 123.

Which laid down that the legal representatives cannot be impleaded based on a will which is contrary to the land mark and progressive judgment of the SC reported in 1992 (1) APLJ 47, SC laying down legal

representatives can be impleaded based on a will or settlement deed which appears to have been ignorantly ignored at some levels which resulted for contribution of this article which is of day-to-day importance.

Be this as it may,

As a prefatory caveat, in order to answer this moot question of considerable importance there is a distinction between “legal representative” and “legal heirs” particularly in the light of the definition of the “legal representative” given under Section 2(11) CPC which is extracted as hereunder:

“Legal Representative” means a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate the

deceased and where a party sues or is sued in representative character in person on whom the estate devolves on the death of the party so suing or sued”.

It is thus evident the definition in Section 2(11) CPC is inclusive in character and its scope is very wide. It is not confined to legal heirs only.

Instead it stipulates a person who may or may not be heir competent to inherit the property of the deceased but, he should represent the estate of the deceased person. It includes heirs as well as persons who represent estate of the deceased person even without title, either as an executor or as an administrator, in possession of the estate of the deceased. All such persons are covered by the expression “Legal Representatives”.

It is thus conclusive, the definition connotes that any inter meddler can be “legal Representative”.

Despite this statutory provision it is sad, the Law laid down by various High Courts as suggested supra is contrary to the statutory provision and is not uniform and is contrary to the earlier land mark and progressive judgment of the SC report in 1992 (1) APLJ SC 47, which lays down legal representatives based on a will or settlement deed can be impleaded and continue the *lis* results in miscarriage of justice.

It is suggested the controversial decisions of the various High Courts which do not lay emphasis on the definition of “Legal Representative”, as provided in Section 2(11) CPC are erroneous and are deemed to be over ruled by the land mark and progressive judgment of the Supreme Court reported in 1992 (1) APLJ 47 (SC). (*Ambalika Padhi v. Radha Krishna Padhi*).

In conclusion, it is therefore suggested whenever a question of impleadment of “legal representatives” based on a will or settlement deed arises it cannot be rejected in a routine manner blindly relaying on the erroneous and contradictory decisions of the various HCs which are contrary to the decision of the SC 1992 (1) APLJ 47 (SC) far earlier decision.

A good deal of controversy surrounds the proposition which resulted for contribution of this article, which is of day-to-day occurrence in the Courts based on the land mark and progressive judgment of SC which appears to have been ignorantly ignored at all levels.

It is suggested Bench and Bar both wheels of justice should be in touch with this important proposition of Law and it is the duty of an Advocate to place relevant facts and latest Law before the Courts in order to avoid erroneous decisions.

Any sophisticated contra view is worth welcome.