

**2022 LiveLaw (SC) 166**

**IN THE SUPREME COURT OF INDIA**  
**CIVIL APPELLATE JURISDICTION**  
**M.R. SHAH; B.V. NAGARATHNA, JJ.**  
**CIVIL APPEAL NOS. OF 2022**

(@ Special Leave Petition (C) Nos. 15623-15626 of 2021)

**STATE OF KERALA & ORS. ETC. ETC.**

*VERSUS*

**LAXMI VASANTH ETC. ETC.**

**Partnership Act, 1932 - Section 30(5) - Sub-Section (5) of Section 30 shall not be applicable to a minor partner who was not a partner at the time of his attaining the majority and, thereafter, he shall not be liable for any past dues of the partnership firm when he was a partner being a minor. (Para 6)**

**Partnership Act, 1932 - Section 30(5) - Sub-Section (5) of Section 30 shall be applicable only in a case where a minor was inducted as a partner and thereafter at the time of attaining the majority he continued as a partner in that case such a partner who has been continued is required to give six months' notice as provided under sub-Section (5) of Section 30. If such a person who has been continued as a partner at the time of attaining the majority does not give six months notice as per sub-Section (5) of Section 30, in that case, he is deemed to have been and/or he shall be continued or treated to have been continued as a partner and the consequences and the liability as per sub-Section (7) of Section 30 shall follow. (Para 6)**

(Arising out of impugned final judgment and order dated 03-03-2021 in WA No. 1521/2017, WA No. 1551/2017, WA No. 1536/2017 and RSA No. 21/2016 passed by the High Court of Kerala at Ernakulam)

*For Petitioner(s) Mr. C. K. Sasi, AOR Mr. Abdullah Naseeh, Adv Ms. Meena K.P, Adv*

*For Respondent(s) Mr. Ranjit Kumar, Sr. Adv. Mr. M. Gireesh Kumar, Adv. Mr. Ankur S Kulkarni, Adv. Ms. Puspita Basak, Adv Mr. Sudhanshu Prakash, Adv Mr. Mahesh Thakur AOR Mr. Ajay Kanojiya Adv Ms. Vipasha Singh Adv Ms. Shailja Das Adv Mr. P. V. Dinesh, AOR Mr. Ashwini Kumar Singh, Adv. Mr. Bineesh K., ADV*

**ORDER**

Leave granted.

1. Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court of Kerala at Ernakulum in W.A. Nos. 1521, 1551 and 1536 of 2017 and RSA No. 21 of 2016 by which the High Court has dismissed the said writ appeals preferred by the appellant/State and has confirmed the judgment and order passed by the learned Single Judge quashing and setting aside the demand towards the sales tax under the Kerala General Sales Tax Act which was for the dues of the partnership firm in which the private respondents herein/original writ petitioners were partners but minors, the State has preferred the present appeals.

2. We have heard Shri C.K. Sasi, learned counsel appearing for the State and Shri Ranjit Kumar, learned senior advocate appearing on behalf of private respondent no.1 herein in SLP (C) Nos. 15623, 15624 and 15626 of 2021 and Shri Sudhanshu Prakash, learned counsel appearing on behalf of respondent no.1 in SLP (C) No. 15625 of 2021.

3. It is not in dispute that the respective private respondents herein, namely, Lakshmi Vasanth and J. Raj Mohan Pillai were inducted as a partners of the partnership firm, namely, M/s. Malabar Cashew Nuts and Allied Products, when they were minors.

It is also not in dispute that at the relevant time when they were inducted as partners, both of them were minors; that the partnership firm was reconstituted on 01.01.1976 and the aforesaid two minor partners were removed as partner. It has come on record that the concerned Department was aware of their retirement as partners. Thereafter, Lakshmi Vasanth attained the majority in the year 1987 and J. Rajmohan Pillai attained the majority in the year 1984. Thereafter, the Department raised the demand towards the sales tax against the partnership firm as well as against the respondents herein for the period between 1970-71 to 1995-1996. Some further proceedings were initiated which were the subject matter before the learned Single Judge, at the instance of the respondents herein. Learned Single Judge allowed the writ petition and quashed and set aside the demand against the private respondents herein. The appeals filed by the State came to be dismissed by the Division Bench of the High Court. Hence, the State has preferred the present appeals.

4. Shri C.K. Sasi, learned counsel appearing on behalf of the State has heavily relied upon Section 30 more particularly sub section (5) and sub section (7) of

Section 30 of the Indian Partnership Act, 1932. It is submitted that as after attaining the majority, the respondents did not give any notice as required under sub-Section (5) of the Section 30, they are deemed to be the partners and therefore, their liability to pay the dues of the partnership firm continued.

5. Shri Ranjit Kumar, learned Senior Advocate appearing on behalf of one of the respondents has vehemently submitted that admittedly the respondents were removed as partners in the year 1976 which was in the knowledge of the Department. It is submitted that therefore, once the day on which the respondents attained the majority, they were not the partners, sub-Section (5) of Section 30 shall not be applicable at all.

5.1 It is submitted that once they were removed as partners, there cannot be any deemed continuance as a partner on non compliance of Sub Section (5) of Section 30. It is submitted that only in a case where on the date of attaining the majority, a person continues as a partner, in that case the procedure as required under sub-Section (5) of Section 30 is required to be followed and if six months notice as required under sub-section (5) is not given, in that case he is deemed to have been continued as a partner and the consequences as mentioned in sub-Section (7) of Section 30 shall follow.

5.2 Shri Ranjit Kumar, learned Senior Advocate has heavily relied upon the decision of this Court in ***Shivagouda Ravji Patil and Ors Vs. Chandrakant Neelkanth Sedalge and Ors. (1964) 8 SCR 233.***

6. Having heard the learned counsel appearing on behalf of the respective parties and considering the facts narrated hereinabove, we are of the opinion that in the facts and circumstances of the case, sub-Section (5) of Section 30 shall not be applicable at all. Sub-Section (5) of Section 30 shall be applicable only in a case where a minor was inducted as a partner and thereafter at the time of attaining the majority he continued as a partner in that case such a partner who has been continued is required to give six months' notice as provided under sub-Section (5) of Section 30. If such a person who has been continued as a partner at the time of attaining the majority does not give six months notice as per sub-Section (5) of Section 30, in that case, he is deemed to have been and/or he shall be continued or treated to have been continued as a partner and the consequences and the liability as per sub-Section (7) of Section 30 shall follow. At the cost of repetition, it is observed that sub-Section (5) of Section 30 shall not be applicable to a minor partner who

was not a partner at the time of his attaining the majority and, thereafter, he shall not be liable for any past dues of the partnership firm when he was a partner being a minor.

7. In that view of the matter, no error has been committed by the learned Single Judge and the learned Division Bench in quashing and setting aside the demand of sales tax against the private respondents herein towards the dues of the partnership firm being the partners as a minor in the year 1975-76.

8. In view of the above and for the reasons stated above, there is no substance in the present appeals and the same deserve to be dismissed and are accordingly dismissed. No cost.

8.1 However, it is observed and clarified that it will be open for the Department to recover the dues of the partnership firm from the other partners in accordance with law.

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