

(2013) 07 P&H CK 0675

High Court Of Punjab And Haryana At Chandigarh

Case No: CR No. 4119 of 2013

Bhan Singh and Another

APPELLANT

Vs

Sudesh Rani and Others

RESPONDENT

Date of Decision: July 12, 2013

Citation: (2013) 172 PLR 180

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: S.K. Jain, for the Appellant;

Judgement

K. Kannan, J.

The petition for impleadment in a suit filed had a person representing a proprietor firm and the suit was sought to be continued through impleadment of the legal representatives. The initial attempt by the wife to implead herself as proprietrix of the firm is said to have been dismissed as withdrawn. Learned counsel contends that if the suit for recovery of money is by an individual then legal representatives could have been added. If the suit is filed by a person as a proprietor of a firm unless the proprietorship itself survives to all the legal representatives, they cannot all be brought on record. This contention is fallacious. A "proprietor firm" in whatever way it is described, cannot make a firm a legal entity. Partnership or a Company is a legal entity in a way different from how a sole proprietor describes himself vis-à-vis the firm. Here the firm under the CPC itself allows for the description to be made either by his name with the firm following or the firm name to be given represented through a proprietor. They are mutually interchangeable. It cannot make a difference that the suit is by a person described as a proprietor or as an individual agency who is plaintiff. If such a person died, legal representatives, who have survived cause of action in terms of Section 306 of the Indian Succession Act, have power to continue the suit. Impleadment order was therefore perfectly justified and I find no reason to interfere with the order passed by the Court below.

2. The order is maintained and the civil revision is dismissed.