

27CS (COMM.)6558/24Js Hospitality Services Private Limited
Vs. Kk Hospitalities

15.07.2026

Present: Sh. Nimish Mishra, Id. Counsel for plaintiff.
None for defendant No. 1.
Sh. Ashutosh Lal, Id. Counsel for defendant No. 2.
None for defendant No. 3.

Matter is listed for disposal of application moved u/o 8 Rule 1 CPC seeking condonation of delay in filing of WS, on behalf of defendant No. 3. No one is appearing on behalf of defendant No. 3.

Ld. Counsel for defendant No. 2 submits that he has also moved an application u/o 1 Rule 10 (2) CPC seeking deletion of name of defendant No. 2 from array of parties. It is stated in the application that plaintiff has filed the present suit for relief of injunctions, recovery of Rs.9,15,200/- in respect of alleged business dealing with plaintiff and defendant No. 1 company. It is stated that defendant No. 2 and 3 had earlier entered into partnership under the name and style of M/s K.K. Hospitalities under a partnership deed dated 16.09.2016 and that firm carried out hospitality business. However as per clause 18 of the said deed, defendant No. 2 retired from the firm on 18.07.2022 by giving a written retirement notice (annex. R-2), which was duly communicated to defendant No. 3 as well as to plaintiff by E-mails. As such defendant No. 2 had no connection with the affairs of the firm or with defendant No. 3 or plaintiff from the date of retirement. It is stated that in view of the

provisions of Section 32 (3) of Partnership Act, retiring partner is not liable for the acts of firm from the date of his retirement. Hence the present application.

Reply to this application has been filed by plaintiff taking an objection that present application is not maintainable as the liability of applicant/defendant No. 2 continues even in terms of Section 32 of the Partnership Act. While the averments of the application have been denied it is stated that the claim of the plaintiff is against all the defendants and is very much sustainable as per Section 32 of Partnership Act as well as the other provisions of the Partnership such as Section 63, 25 of the Act.

I heard the counsel for the parties and have gone through the record particularly the claim made in the plaint. Ld. Counsel for plaintiff has relied upon the judgements of Apex Court in **Shivaappa Reddy Vs. S. Srinivasan 2025 SCC Online page 1162** and Allahabad High Court in **Lakshmi Vilas Bank Ltd. Vs. Sun Finance and ors. 1995 AIHC 3105**.

Having considered the submissions and there is no dispute to the fact that in view of Section 32(2) of Partnership Act a retiring partner stands discharged from any liability to third party for the acts of the firm done after his retirement as well as in respect of acts done even before his retirement if an agreement to that effect has been entered into with such third party to discharge from any liability. However, the process of retirement require a proper procedure to be followed. A retiring partner is required to issue a written notice not only to the existing partners as well as to the third parties. Out going partner is also required to give that notice to the Registrar of firms so that necessary

changes in the constitution of firm can be made from the date of retirement. Such procedure has to be contemplated under the Partnership Act for fixing the accountability not only of existing partners of the firm but also of retiring partners. It is settled law that in the absence of any such procedure being not followed, an outgoing partner can still be liable in respect of Acts of the firm done prior to his retiring from the firm. Therefore, mere fact that if partner has retired, *if so facto* cannot be a reason to exculpate him from the liability.

The judgments as relied upon by the Id. Counsel for plaintiff also reiterates such legal position. Therefore, this Court is of the considered view that documents annexed with the application are not sufficient to conclude that applicant/defendant No. 2 is not necessary party in the present suit. As such no ground is made out for deletion of name of defendant No. 2 from the array of parties. Application is accordingly dismissed.

Put up now this case for disposal of application of defendant No. 3 and further proceedings on **05.08.2026**.

(Shailender Malik)
District Judge (Commercial)-02
North District, Rohini Courts,
Delhi/15.07.2026