

Banarsi Dass *v.* Panna Lal, etc. (Sarkaria, J.)

imports a discretion. In exercising that discretion, the Courts will invariably take into account the wishes of the plaintiff before adding a third person as a defendant to his suit. Only in exceptional cases, where the Court finds that the addition of the new defendant is absolutely necessary to enable it to adjudicate effectively and completely the matter in controversy between the parties, will it add a person as a defendant without the consent of the plaintiff. An instance of such exceptional case is furnished by the one reported as *Razia Begum v. Anwar Begum* (6). In that case, the plaintiff had sought a declaration that she was the legally wedded wife of the defendant, and the applicant sought to be added as a defendant to contest the claim. The applicant claimed to be another married wife of the defendant. The prayer was granted on the consideration that the declaration of the status of the party acts, more or less, in form and affects the parties for generations to come. The case before me is not an exceptional case of that kind.

Still there is another aspect of the matter which has been discussed by the learned subordinate Judge in his order. Banarsi Dass has yet no vested right in the property which is the subject matter of his suit for specific performance. He is still striving to establish his right to the property. So far his right is merely inchoate. He cannot, therefore, be said to be a person whose rights would be legally affected by the decree in Panna Lal's suit.

For all the reasons aforesaid, I do not find any force in this petition, which I hereby dismiss *in limine*.

R. N. M.

APPELLATE CRIMINAL

*Before J. S. Bedi, J.*

RAM RATTAN,—*Appellant.*

*versus*

THE STATE,—*Respondent.*

Criminal Appeal No. 810 of 1967.

January 25, 1968.

*Arms Act (LIV of 1959)—S. 2(c)—Gandasa—Whether an "arm".*

*Held*, that the word "adapted" in the definition of "arms" in section 2(c) of the Arms Act, 1959 is significant. *Gandasa* is a sharp-edged weapon and is adapted and designed as a weapon for offence or defence. Many murders are

committed by such weapons. This is not a weapon which is primarily and solely used for domestic or agricultural purposes. Hence *gandasa* is covered by the definition of "arms" in section 2(c) of the Act.

*Appeal from the order of Shri Pritam Singh Pattar, Sessions Judge, Sangrur, dated the 28th September, 1967, convicting the appellant.*

PARTAP SINGH, ADVOCATE, for the Appellant.

K. S. KEER, ADVOCATE, FOR ADVOCATE-GENERAL, for the Respondent.

### JUDGMENT

BEDI, J.—Ram Rattan appellant was committed to the Court of Sessions to stand his trial under section 27 of the Arms Act on the allegation that he on the 25th March, 1967, was in possession of *gandasa* exhibit P. 1 and caused injuries to Sawan Singh of his village with it. The offence against him was proved and he was convicted by Shri Pritam Singh Pattar, Sessions Judge, Sangrur, on the 8th September, 1967, and sentenced to one year's rigorous imprisonment. The appellant feels dissatisfied and has filed an appeal to this Court.

The story for the prosecution is as under. The parties in this case are residents of village Balial, Police Station Bhawanigarh, district Sangrur. Sawan Singh, P.W., has two sons, namely, Babu Singh and Sadhu Singh both of whom are married. Bhajno, wife of Babu Singh had contracted illicit relations with the appellant. Babu Singh along with his wife lived in a house close to the one where Sawan Singh, his father resided. Sadhu Singh's house was at a short distance from that of Sawan Singh. On the 25th March, 1967, at about 9 p.m., Sawan Singh, P.W., along with his wife and son Sadhu Singh was sitting in their house when Sawan Singh went out to make water and saw the appellant going in a drunken condition carrying *gandasa* exhibit P. 1, towards the house of his son Babu Singh, P.W. Sawan Singh asked the appellant as to why he was going to that house whereupon the appellant abused Sawan Singh and asked him not to stand in his way and also threatened to teach him a lesson. Saying so, the appellant gave a *gandasa* blow from its sharp side which fell on his face and cheek. On receipt of this injury, Sawan Singh fell down and raised an alarm, on hearing which Sadhu Singh and his wife came there. Sawan Singh was given more injuries by the appellant. In the meantime, Babu Singh also arrived there and after arming himself with a *gandasa* caused injuries to the appellant with it in the exercise of the right of private defence and thus rescued his

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father Sawan Singh from the on slaughts of the appellant. The appellant was arrested on the 28th March, 1967. During the investigation, the appellant was interrogated on the 1st April, 1967, when he made disclosure-statement exhibit P.A./1 to the effect that he had concealed *gandasa* exhibit P. 1 in the wheat field of Gurdev Singh of Rampura near the *kikar* tree and offered to have it recovered. He then led the investigating party to the above-mentioned place and produced the *gandasa*, which was taken into possession,—*vide* memorandum Ex. PY/1. A case was also registered under section 27 of the Arms Act against the appellant and he was sent up for trial which ended in the above-mentioned result.

The recovery in this case is witnessed by Head Constable Sant Singh, Faquir Singh and Kundan Singh. Their evidence is consistent and there is no reason why their sworn testimony should not be relied upon. In fact, the only argument in this appeal advanced by the appellant's counsel before me was that the *gandasa*, was not covered by the definition of the word "arm" under the Arms Act and he cited *Mehr Din v. Emperor* (1). But the definition of an arm was different under the old Act. In the Act of 1959 which is the latest enactment on the subject, "arms" is defined—

"articles of any description designed or adapted as weapons for offence or defence, and includes fire-arms, sharp-edged and other deadly weapons, and parts of, and machinery for manufacturing, arms, but does not include articles designed solely for domestic or agricultural uses as a *lathi* or an ordinary walking stick and weapons incapable of being used converted into serviceable weapons."

In this case, the word "adapted" is significant for our purpose. *Gandasa* is a sharp-edged weapon and is adapted and designed as a weapon for offence or defence. Many a murder are committed by such weapon. This is not a weapon which is primarily and solely used for domestic or agricultural purposes. I am, therefore, of the view that *gandasa* is covered by the definition of "arms" in the Arms Act 1959 (No. 54 of 1959).

No other point was raised before me.

For the reasons given above, I dismiss this appeal also.

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K.S.K.

(1) A.I.R. 1927 Lahore 162.