

Quadrant II - Notes

Paper Code: CON0313

Module Name: Doctrine of holding out

Module No: 16

❑ Doctrine of holding out S.28

❑ Branch of the law of estoppel

❑ According to the law of estoppel, if a person by his representation induces another to do some act which he would not have done otherwise, then the person making the representation is not allowed to deny what he asserted earlier

❑ If a person who is not a partner, by his representation creates an impression in the mind of a 3rd party that he is a partner on the basis of which the 3rd party gives credit to the firm, the person making the representation will be held out to be a partner

❑ Essentials of S 28:

1. The person sought to be made liable under the doctrine of holding out either has himself represented or, knowingly permitted someone else to represent that he is a partner in the firm.

2. The 3rd party who wants to bring an action, must have acted on the faith of the representation and given credit to the firm

❑ “Representation”:

❑ May be in any form

❑ Motive not important

- Snow White Food Products Pvt. Ltd v Shoan Lal Bagla

❑ Knowingly permits the representation

- Munton v. Rutherford

❑ Mere carelessness does not necessarily mean that the representation has been knowingly permitted

- Tower Cabinet Co v. Ingram

❑ Acts on the faith of the representation and gives credit

❑ Torts: Doctrine of holding out does not apply

❑ Position of a retired partner

- Scarf v. Jardine

☐ Death:

☐ Automatic dissolution

☐ Contract to the contrary

☐ Old firm name does not of itself make the legal representatives/ estate liable for acts done after death