

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No.6639 of 2017
Date of Decision: 27.09.2017**

**Daya Krishan Gill
Vs
Prem Singh and another**

**.....Petitioner
.....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. C.L. Sharma, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Defendant/petitioner has preferred this revision petition against the order dated 01.05.2017 passed by Additional District Judge, Rupnagar, whereby appeal filed by the defendant/petitioner against the order dated 12.04.2016 passed by Civil Judge (Junior Division), Rupnagar was dismissed.

[2]. A suit for permanent injunction along with application under Order 39 Rules 1 and 2 CPC was filed by the plaintiffs on the ground that partnership comprising of 16 partners having defined proportions in profit and loss of the firm was constituted. One of the partner namely Parminder Singh died and thereafter, partnership firm came to be dissolved under Section 42(c) of the Partnership Act, but the defendant kept on acting as special power of attorney of the firm and sold 7 acres of land belonging to the partnership firm. A Legal notice was issued to the

defendant, restraining him from acting on behalf of the firm and thereafter, the suit in question came to be filed.

[3]. Defendant took the stand that earlier plaintiff No.2 was the general power of attorney of the firm and the said general power of attorney was cancelled on 18.09.2007. Thereafter, power of attorney was executed in favour of the defendant. The sale of 7 acres of land was for paying the installments of loan advanced to the firm. Plaintiffs have already withdrawn from the firm and the property belongs to the firm.

[4]. The firm has not been dissolved. Death of one of the partner may entail in dissolution of the firm, but if the remaining partners agreed to continue, Section 42 (c) of the Partnership Act is qualified by this rider. The validity of such dissolution and validity/admissibility of special power of attorney dated 06.12.2012 would be gone into by the trial Court. Trial Court has granted *status quo* with regard to the suit property till pendency of the suit and the Lower Appellate has affirmed the same.

[5]. In my considered opinion, even if a plea of maintainability of suit is taken, the Court is empowered to grant interim injunction till such time the issue of maintainability is decided by the competent Court. Reference can be made to

Tayabbhai M. Bagasarwalla Vs. Hind Rubber Industries Pvt. Ltd., 1997(2) RCR 473(SC) which was followed by this Court in

Basakhi Ram Vs. Suresh Kumar, 1998(3) RCR (Civil) 175.

[6]. Having considered the aforesaid proposition, I find no error of jurisdiction in the impugned orders passed by the Courts below. This revision petition is accordingly dismissed.

September 27, 2017.	(RAJ MOHAN SINGH)
<i>Prince</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No