

CR No. 8493 of 2016 (O&M)
DECIDED ON: MARCH 08, 2017

.....PETITIONER

VERSUS

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

JASPAL SINGH, J

Challenge in this revision petition preferred under Article 227 of the Constitution of India, petitioner has sought the quashing of impugned order dated November 16, 2015, passed by learned Civil Judge (Jr. Division), Amritsar (Annexure P-5) whereby, parties were directed to maintain status quo with regard to the existing position at the spot, as well as to the order dated October 05, 2016 (Annexure P-7) passed by learned Additional District Judge, Amritsar whereby, an appeal preferred against the aforesaid order, has been dismissed.

While assailing the impugned orders, it has been argued by learned counsel for the petitioner that both the courts below have completely overlooked the fact that there is no documentary evidence adduced by the respondent/plaintiff, that any property was purchased in the name of firm out of

its joint funds. On the contrary, the jamabandies showing the properties owned by the petitioner-defendant in his individual capacity has been placed on record. The courts below have also not appreciated the fact that though the partnership deed dated October 25, 2004 was reduced into writing but in pursuance thereof, no business was started by the partnership firm. Thus, there was no occasion for the petitioner to extend any sort of threats to the respondent/plaintiff to alienate or dispossess from the property of firm.

This Court has given an anxious thought to the submissions made by learned counsel for the petitioner but does not find any legal or factual substance.

It is well settled proposition of law that the scope of interference by the Appellate Court or Revisional Court is very limited where the ad-interim injunctions are granted or declined. The Appellate Court or Revisional Court can interfere only on the grounds if the court(s) below has acted arbitrarily, perversely, capriciously or against legal principles without considering all the relevant record on the file

Undoubtedly, the order refusing or granting temporary injunction is of a discretionary character. Ordinarily, the Court of appeal is not required to interfere with the exercise of discretion by the trial Court and substitute for its own discretion. Even, the possibility of Appellate Court coming to a different conclusion on the same facts and evidence will not justify interference.

Adverting to the facts of the instant case, parties have been directed to maintain status quo with regard to the existing position at the spot, keeping in view the fact that documents available on file i.e. partnership deed dated October 25, 2004. Now, it is a matter of evidence whether there is any proposal

to start the business by the partnership firm. All that is a matter of evidence and it has been held so by learned trial Court as well as by learned lower Appellate Court. It cannot be said that discretion exercised by the courts below is either perverse or against the settled principles of law. Only the parties have been directed to maintain status quo to preserve the existing position at the spot, which cannot be said to be detrimental to either of the parties.

In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, it stands dismissed.

MARCH 08, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*