

**114 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-49834 of 2018 (O&M)

Date of Decision:15.11.2018

Parshant Bishnoi

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Deshpreet Singh, Advocate,
for the petitioner.

MAHABIR SINGH SINDHU, J.(ORAL)

Present petition has been filed with the prayer to direct respondents No.2 and 3 to protect the life and liberty of the petitioners at the hands of respondents No.4 and 5.

Brief facts of the case are that the petitioner and respondent No.4 are running a partnership firm since 27.09.2013 under oral agreement, which was subsequently registered by way of partnership deed dated 05.07.2016 under the provisions of the Indian Partnership Act, 1932 (for short, 'the Act') under the name and style of M/s. Sukhchain Service Station. Principal place of business of the firm is at Malout, Hanumangarh Road, Village Sitto Guno, Tehsil Abohar District Fazilka, Punjab or any other place that may be agreed between the partners. The share of both the partners is upto the extent of 50% each.

The firm is running the business of petrol pump i.e. sale and purchase of petrol, diesel and lubricants and for that purpose, a

Tanker/Lorry (Oil Tanker) LPT, Registration No.PB-22K-3079, Chasis No.MAT 373016E2H09793, Engine No.697TC69HVY110313 Model 2014 was purchased by the firm.

It is contended by learned counsel for the petitioner that respondent No.4 in connivance with respondent No.5 transferred the above tanker in the name of respondent No.5 without prior consent, knowledge and permission of the petitioner and thus committed a fraud and cheating. Further contends that firm is still in existence and not dissolved till date, thus the action of respondent No.4 is in breach of terms and conditions of the partnership deed (P-1).

Heard learned counsel for the petitioner and perused the paper book.

It is the admitted position that petitioner and respondent No.4 are ruining a partnership firm in equal share under the partnership deed dated 05.07.2016 and the firm is in a running position as on today. There is no doubt that as per terms and conditions of the partnership deed, no partner is authorised to sell, mortgage or transfer his share without the consent of the other. At the same time, the partnership deed envisages that in case of dispute regarding the business affairs of the firm, the matter shall be referred to the arbitrator and whose award shall be binding on both the partners. Relevant part of the said clause is as under:-

“That in case of dispute or difficulties regarding interpretation of partnership deed or clause thereof or concerning business affairs the matter shall be referred to an arbitrator whose award shall be binding on both the partners.”

In view of the above, it is apparently clear that there is an arbitration clause available to the petitioner and if respondent No.4 has committed breach of any terms and conditions of the partnership deed, the present petition is not the appropriate remedy for redressal of the grievance, rather it is somewhere else. The facts reveal that petitioner is trying to put pressure on respondent No.4 and giving the colour of a criminal litigation, which can be resolved by way of efficacious remedy while invoking the arbitration clause stipulated in the partnership deed itself.

In view of the above, this Court is not inclined to entertain the present petition and consequently, the same is dismissed. However, the petitioner would be at liberty to take recourse to the remedy available under law, if so advised.

(MAHABIR SINGH SINDHU)
JUDGE

15.11.2018
sk

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No