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CR-3462-2026 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3462-2026 (O&M)
Date of decision: 23.04.2026

ABVB through ABVB Steel Company ...Petitioner

Versus

M/s Seerat Concast and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Nakul Sharma, Advocate for the petitioner.

DEEPAK GUPTA, J. (ORAL)

The present revision petition has been preferred by the plaintiff of Commercial Suit No. 20-2025 titled '*ABVP Steel Company vs. M/s Seerat Concast & another*' assailing that part of the composite order dated 30.03.2026 (*Annexure P-1*) passed by the Commercial Court presided by learned Additional District Judge, Fatehgarh Sahib, whereby the objections filed by the third party, namely M/s Bharat Steel Industries, under Order XXXVIII Rule 8 CPC were allowed, and the property belonging to the said firm was ordered to be released from attachment before judgment.

2. The principal grievance of the petitioner is that the learned trial Court erred in releasing the property of M/s Bharat Steel Industries despite the specific plea that the alleged retirement of defendant No.2 from the said firm was fraudulent and engineered to defeat the plaintiff's claim. It is contended that the trial Court ought to have continued the attachment or, at the very least, kept the objections pending for adjudication after framing issues regarding the genuineness of the retirement deed.

3. Having heard learned counsel for the petitioner and perused the record, this Court finds no merit in the present revision petition.



4. At the outset, it is to be noticed that the jurisdiction of this Court under Article 227 of the Constitution / Section 115 CPC (as applicable) is supervisory and not appellate. Interference is warranted only where the order impugned suffers from patent illegality, perversity, or jurisdictional error. A plausible and reasoned view taken by the trial Court, even if another view is possible, does not call for interference.

5. The scheme of Order XXXVIII Rule 5 CPC makes it clear that attachment before judgment is an extraordinary remedy intended to prevent a defendant from defeating the decree that may ultimately be passed. However, such attachment cannot be used as a tool to create a security interest in respect of property, which does not belong to the defendant. The provision is preventive in nature and not punitive.

6. In the present case, the learned trial Court has recorded a categorical finding that the property in question stands in the name of M/s Bharat Steel Industries, which is not a party to the suit and is a distinct legal entity for the purposes of the present proceedings. The dispute in the suit is purely between the plaintiff and the defendants arising out of alleged commercial transactions, and admittedly, there is no privity of contract between the plaintiff and the said third party.

7. The contention of the petitioner that defendant No.2 continued to have an interest in the partnership assets, or that her retirement was fraudulent, has rightly been held by the trial Court to be a matter requiring detailed evidence. The Court below has correctly observed that such an issue cannot be adjudicated in summary proceedings under Order XXXVIII Rule 8 CPC.

8. More importantly, even if the allegation of fraud is assumed, the remedy of the plaintiff lies elsewhere. A challenge to a transfer or



transaction as being fraudulent is governed by Section 53 of the Transfer of Property Act and requires substantive proceedings. The summary mechanism of attachment before judgment cannot be converted into a forum for adjudicating complex questions of title, fraud, or validity of partnership transactions.

9. The learned trial Court has also relied upon the settled principle that attachment before judgment cannot extend to property, which did not belong to the defendant on the date of institution of the suit, and that rights of bona fide third parties cannot be prejudiced in such proceedings. This approach is in consonance with settled law and does not suffer from any legal infirmity.

10. It is equally significant that the trial Court has safeguarded the rights of the plaintiff by expressly granting liberty to pursue appropriate remedies in accordance with law for challenging the alleged retirement/transfer as fraudulent. Thus, no prejudice has been caused to the petitioner.

11. The argument that the attachment ought to have been continued merely on the basis of suspicion of fraud cannot be accepted. Attachment before judgment cannot be sustained on conjectures, particularly when it affects the property of a non-party. To permit such attachment would amount to expanding the scope of Order XXXVIII Rule 5 CPC beyond its statutory limits.

12. The reasoning assigned by the learned trial Court is cogent, legally sound, and based on correct appreciation of the statutory provisions as well as the material on record. No jurisdictional error, perversity, or material irregularity has been demonstrated so as to warrant interference by this Court in exercise of revisional jurisdiction.



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13. Consequently, the present revision petition is dismissed.
Pending applications, if any, also stand disposed of.

23.04.2026

Yogesh

**(DEEPAK GUPTA)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**