

Unit 3: Registration & Dissolution.

Dissolution of Firm

Sec 39: The dissolution of partnership between all partners of firm is called "dissolution of firm"

→ **discontinuance** of operations.

* Dissolution of Partnership

→ Termination of partnership relationship among partners

→ No **discontinuance** of partnership.

* Reconstitution of Firm.

change in existing partnership structure.

eg- Admission of partner.

Retirement of partner.

change in profit sharing ratio etc.

Modes of Dissolution.

Sec 40: By Agreement → consent of all partners.

Sec 41: Compulsory Dissolution.

- i] insolvency of all except one.
- ii] business → **unlawful**.
- iii] death of all except one.

Sec 42: certain contingencies.

- i] fixed term → expiry of term
- ii] Adventures → completion of adventures
- iii] Death of partner.
- iv] Adjudication of a partner as insolvent.

Sec 43: By Notice → Partnership at will.

- i] Giving Notice to all partners.
- ii] Date mentioned in the notice → if not date of communication of notice

Sec 44: By Court → Where a partner.

- | | |
|---------------------------------|---|
| i] Insane / Unsound Mind | vi] transferred his whole interest to third party. |
| ii] Permanent incapacity | vii] allowed his share to be changed |
| iii] Guilty conduct | viii] allowed his share to be sold in recovery of arrears |
| iv] breach of agreement | ix] Loss |
| v] conducts matters in a manner | x] just & equitable |
- not reasonably practicable to continue business with

Consequences of Dissolution

Sec 45: Liability until public notice.

- i] Public notice not required
- | | |
|--------------------------------|---------------|
| a] estate of partner who died. | } not liable. |
| b] dominant partner. | |
| c] insolvent partner. | |

Notice may be given by any partner.

Sec 46: Right to have business wound up
Right to have business -

- i] wound up → debt settled from property
ii] surplus → distributed among the partners.

Sec 47: Continuing Authority of Partners

Partners authority → will continue even after dissolution.

- as necessary for winding up.
→ Insolvent cannot bind firm.

Sec 48: Mode of Settlement.

- i] Losses → paid out of profits first.
secondly → from capital.
Lastly → partner individually → share profit.
- ii] Assets → firstly for debts of firm to third parties
will be used then partner advances to firm.
then capital of partners &
if surplus → distributed among partners.

Sec 49: Firm Debts & Seperate Debts.

- i] Firm Debts → firstly from firm property,
→ then if any left from sepearte properties
- ii] Seperate Debts → Individual property first, & then
→ if any left from firm property

Sec 53: Restrain to use firm name

- i] dissolved → Restrain to use firm name / to do similar business.
- ii] bought goodwill → can use firm name.

Registration of Firms

Sec 58 → Application

- 1] statement in prescribed form + fee + Partnership Deed.
- 2] Details to be furnished.
 - a] the firm name.
 - b] nature of business
 - c] place / principal place of business.
 - d] any other place
 - e] date → partner joined.
 - f] full & permanent address
 - g] duration of firm.

Signed by all partners / agents authorised.

- 1A] Statement → sent to ROF within 1 year from date of constitution.
→ Maharashtra Act → from such date

2] Verify in manner prescribed.

3] Name start not contain → unallowed words.

Sec 59: Registration

- i] Registrar satisfied → Record entry & file the statement
- ii] Use bracket words (Registered).

Sec 69: Effect of Non Registration.

- i] No suit to enforce a right → any court → by a firm.
unless →
 - i] firms is registered.
 - ii] person suing are listed as a partner with registration of firm.
 - ii] Claim set off → Not available.
- can do
- i] Sue for dissolution or account of diss firm or right to realise property
 - ii] powers of official assignee / receiver to sue will not be affected.

Sec 70 → Penalty → any false statement or document filed Imprisonment upto 3 month / fine / Both

Sec 71 → Mode of Public notice

- i] Retirement / Expulsion →
→ Notice to ROF, in Official Gazette, One Vernacular Newspaper of location of Registered Office
- ii] Other case → Official Gazette + Vernacular newspaper of registered office.