
(2011) 01 P&H CK 0168
In the Punjab And Haryana At Chandigarh
Case No : Company Appeal No. 20 of 2010

D.C.B. and Another

APPELLANT

Vs

Friends Flour Mills

RESPONDENT

Date of Decision : 24-01-2011

Acts Referred:

Citation : (2011) 01 P&H CK 0168

Hon'ble Judges : Satish Kumar Mittal, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Adarsh Kumar Goel, J.—This appeal has been preferred against order of learned Single Judge admitting the winding up petition and directing publication of order of admission in the official gazette and newspapers.

2. Case of the Respondent-Petitioner was that the Appellant company defaulted in payment of dues by dishonouring the cheque and in spite of statutory notice, failed to make the payment. Learned Single Judge after considering the matter recorded finding to the following effect:

I have heard learned Counsel for the parties but found that the defence raised by the Respondents that the amount is bona fide disputed, is not made out from the pleadings raised. The receipt of the goods is not disputed in the reply to the notice as well as in the reply filed to the petition. The only dispute revolves around the extent of payment made in cash and in respect of alleged defective goods said to be returned to the Petitioner. There is nothing on the record, on the part of the Respondents, to show that how much amount was paid in cash or how the goods were returned.

It is the categorical case of the Petitioner that that there was no transaction in cash as the parties are registered under the Companies Act. There is no acknowledgment of the goods being defective. In fact, nothing has been produced by the Respondents in support of its plea that some of the goods were

defective. Therefore, the defence of the Respondents that certain goods were defective or that the payments have been made in cash, cannot be said to be tenable. Such plea has been raised without any substance and, thus, lacks bona fides.

The matter was heard by this Court on 23.7.2010. Learned Counsel for the Respondents sought time to get instructions from the Respondents. Learned Counsel for Respondents on 29.7.2010, who appeared earlier again sought time. Today, another counsel has put in appearance by superseding the earlier counsel who has argued the matter earlier.

3. On the last date, while issuing notice, stay was granted on the condition to deposit Rs. 2.5 lacs within four weeks, which time was extended by two weeks on the application of the Appellants.

4. None appears for the Appellants. None appeared on the last date also. As per office report, the Appellant has not deposited the amount.

Dismissed for non-prosecution.