
(1987) 03 P&H CK 0113
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2066 of 1986

L.D. Khanna

APPELLANT

Vs

Sidhsons and Others

RESPONDENT

Date of Decision : 24-03-1987

Acts Referred:

Companies Act, 1956 — Section 446

Citation : (1987) 62 CompCas 103

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Advocate : Surjit Singh Sood, for the Appellant; K.S. Thappar, for the Respondent

Judgement

Goyal, J.—Respondents Nos. 1 and 2 filed a suit against the petitioner and respondent No. 3 for the recovery of Rs. 1,50,000 on account of the goods supplied to the petitioner as marketing director of M/s. Edison Craft Pvt. Ltd. The company has admittedly gone under liquidation. The defendants, therefore, moved an application that the suit was liable to be stayed u/s 446 of the Companies Act which provides that no suit can be instituted or carried on without the leave of the company judge. The application has been dismissed by the trial court on the ground that it is not a suit against the company. Aggrieved thereby, the two defendants have filed two separate Civil Revisions Nos. 2066 of 1986 and 2885 of 1986 which shall be disposed of by this order. Learned counsel for the petitioner has challenged the impugned order on the ground that the goods were supplied to the company and as no suit would be competent without the leave of the company judge, the suit was liable to be stayed. The contention is wholly misconceived. The fact that the defendants would not be liable for the payment of the amount if the goods were supplied to the company, is not a matter to be considered at this stage. If ultimately it is found that the defendants are not liable, the suit would be dismissed but that would be no ground to stay the suit u/s 446 of the Companies Act. The application was, therefore, wholly misconceived and rightly dismissed. The revision is accordingly dismissed. No order as to costs.

2. The parties through their counsel are directed to appear in the trial court on April 8, 1987.