
(2000) 02 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Company Petition No. 189 of 1999

Shri Sachda Anand Rosin Factory	Vs	APPELLANT
Mukerian Papers Limited		RESPONDENT

Date of Decision : 15-02-2000

Acts Referred:

Companies Act, 1956 — Section 433

Citation : (2000) 125 PLR 759 : (2000) 2 RCR(Civil) 478

Hon'ble Judges : V.S. Aggarwal, J

Bench : Single Bench

Advocate : Rakesh Bhatia, for the Appellant; None, for the Respondent

Judgement

V.S. Aggarwal, J.—Shri Sachda Anand Rosin Factory (hereinafter described as "the petitioner-company") has filed the present petition u/s 433 read with Sections 434 and 439 of the Companies Act, 1956 (for short "the Act") seeking winding up of the Mukerian Papers Limited (hereinafter described as "the respondent-company"). It has been pleaded that the petitioner-company carries on the business as per the objects. The respondent-company is indebted to the petitioner-company to a sum of Rs. 15,17,097.45 as the principal amount besides the interest which comes to Rs. 8,10,662/-

2. The respondent-company had placed an order to the petitioner-company for supply of rosin and the petitioner-company has supplied the rosin, from 1.4.1996 to 24.11.1998 for a sum of Rs. 15,17,097.45. The invoices of the same had been placed on the record as Annexures P-1 to P-22. The respondent-company has not made the payment despite demand notice and alleged that it is unable to pay the said amount. Hence, the present company petition had been filed.

3. Notice of the petition had been issued to the respondent-company. Appearance was put in by the respondent counsel on 10.9.1999. Since then, several adjournments had been claimed for filing reply to 15.10.1999; 5.11.1999; 26.11.1999; 21.1.2000 and 11.2.2000. Reply was not filed and on

11.2.2000 none appeared on behalf of the respondent-company.

4. The petitioner-company has placed on record the copies of invoices Annexures P-1 to P-22 so as to show that goods as such have been supplied. At this stage, there is little precious on the record that the said goods were not delivered or that the amount is not due. The record also not show that any payment has been made. For the purposes of the present order, it is clear that payment has not been made, the amount is due. The ingredients of Clauses (e) and (f) of Section 433 of the Act are satisfied.

5. Accordingly the present petition is admitted. It is directed that this fact be published in the official gazette of the Punjab Government; Indian Express and Dainik Tribune with a clear difference of 14 days between the date of publication and the next date of hearing. List it on 6.4.2000.