106 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CAPP-1-2022(O&M)
Date of Decision:18.05.2022

M/s Chirag & Company Pvt. Limited **....... Appellant**

versus

M/S Montari Industries Limited and others **....... Respondents**

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE PANKAJ JAIN

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Present: Mr. Puneet Kansal, Advocate for the appellant.

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<u>TEJINDER SINGH DHINDSA, J. (ORAL)</u>

The instant appeal under Section 483 of The Companies Act, 1956 is directed against the order dated 21.03.2022 passed by the learned Single Judge in CA No. 148 of 2021.

The order under challenge reads in the following terms:-

" *Present: Mr.Puneet Kansal, Advocate for the applicant.*

Mr.Angel Sharma, Advocate for the Official Liquidator.

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The applicant is an auction purchaser of the property of the Company in liquidation. A notice has been received by the applicant under Section 47-A of the Stamp Duty Act, 1899. The applicant prays for quashing of the aforesaid notice. The learned counsel representing the petitioner contends that in view of Clause (d) of Sub-Section 2 of Section 446 of the Companies Act, 1956, the Company Judge has the enabling power to decide all questions of law or fact which may relate to or arise during the course of winding up of the Company. He submits that Sub-Section 2 starts with nonobstante clause *therefore, the Court should exercise its powers.*

It is evident that the dispute in question in no way at this stage affect the rights of the Company in liquidation. It is for the applicant to satisfy the authorities under the Stamp Duty Act, 1899, that there was no deficiency in payment of the stamp duty.

In the considered view of the Court, it would not be appropriate for a Company Judge to start deciding disputes which are not related to the winding up of the Company.

Hence, the application is dismissed.

March 21, 2022 (ANIL KSHETARPAL)
JUDGE ”

Counsel at the very outset makes a submission that the petitioner-company would have a remedy in law against final order that had been passed under Section 47-A of the Stamp Duty Act, 1899 pursuant to which being an auction purchaser of the property was the company in liquidation. However, in the order under challenge it has been observed that the applicant has prayed for quashing of a notice under Section 47-A of the Stamp Duty Act, 1899. Counsel has taken us through the pleadings that were placed before the learned Single Judge and wherein there was a clear reference not only to notice but also to the final order that had been passed under Section 47-A of the Stamp Duty Act, 1899.

He prays for withdrawal of the instant appeal reserving his liberty to challenge the impugned order dated 16.10.2021 (Annexure A-15) passed under Section 47A of the Stamp Duty Act, 1899 in accordance with law and by raising all grounds as may be availably.

With such clarification, the appeal is disposed of as per submission made by counsel with liberty as prayed for.

(TEJINDER SINGH DHINDSA)
JUDGE

(PANKAJ JAIN)
JUDGE

18.05.2022
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No