

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDI GARH

CAPP-29-2016 (O&M)
Date of decision: - 16.02.2017

Prashant Doval and others
... Appellants

Versus

M/s Lafarge Aggregates and Concrete India Pvt. Ltd. and
others.
... Respondents

CORAM: HON'BLE MR. JUSTICE S. J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: - Mr. Alok Kumar Jain, Advocate,
for the appellants.

Mr. Anand Chhibbar, Senior Advocate,
with Mr. Vaibhav Sahni, Advocate,
for respondent No. 1.

Mr. Eklavya Gupta, Advocate,
for respondent No. 3 – Official Liquidator.

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S. J. VAZIFDAR, C. J. (ORAL)

This is an appeal against the order of the Learned Company Judge dated 09.09.2016 in so far as the Learned Company Judge has imposed costs of ₹ 1 lac to be deposited by the applicants-appellants in the Common Pool Fund of the official liquidator.

2. The petition was filed for winding up the respondent-company, namely, M/s Ria Constructions Limited, inter alia, on the ground that it was unable to pay its debts. The petition was initially admitted against which an appeal was filed. In the Appeal Court, however, certain directions were passed for payment of amounts by the respondent-company to the petitioning creditor. The consequence of default was also

provided. These facts are, however, not material to the present appeal.

3. Before the Learned Company Judge, the applicants-appellants who are the employees of the company filed objections against the order admitting the company petition. They contended that this was a devise to wrongly make payment to the petitioning creditor. The applicants-appellants contended that their wages had not yet been paid. The Learned Company Judge rightly held that the applicants-appellants were bound to adopt proceedings in accordance with law for recovery of their dues as the company had still not been wound up. Whether the allegation that the petitioning creditor and the respondent-company had put in place a devise to wrongly make payment to the petitioning creditor is a different matter altogether. In our view, if the application is dismissed on merits, the order imposing costs on the employees was not called for.

4. In these circumstances, the appeal is allowed and the impugned order in so far as it imposes costs of ₹ 1 lac is set aside.

(S. J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

16.02.2017

Anodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No