

Malhotra Steel Syndicate vs Punjab Chemi-Plants Ltd. on 14 July, 1992

Equivalent citations: I(1993)BC177(SC), 1993SUPP(3)SCC565, AIRONLINE 1992 SC 160, (1992) 2 CURLJ(CCR) 519, (1992) 2 PUN LR 545, (1993) 2 BANKLJ 30, 1993 SCC (SUPP) 3 565, (2001) 10 JT 160 (SC), (2002) 1 SERVLR 321, (2003) 3 SCALE 104

Bench: S. Ranganathan, R.M. Sahai

ORDER

S. Ranganathan, v. Ramaswami and R.M. Sahai, JJ.

1. Leave granted.

2. We have heard both Counsel. We have looked at the form and verification of the affidavit filed before the High Court in support of the application for winding-up.

3. We are satisfied that the verification, on a proper and liberal construction, does contain an averment to the effect that the statements made in the affidavit are true and correct to the knowledge of the appellant. We do not think that the affidavit can be described as defective in any respect. But that apart we are of the opinion that even if there some slight defect or irregularity in the filing of the affidavit, the appellant should have been given an opportunity to rectify the same.

4. We are, therefore, of the opinion that the Division Bench was in error in dismissing the appeal on the short ground that the affidavit filed in support of the petition was not in proper form and that the petition could not be entertained. We, therefore, set aside the order of the Division Bench dated 21-8-1991.

In the result, the Company Appeal will stand revived before the Division Bench for disposal on merits.

5. The appeal is allowed accordingly. There will be no order as to costs.