

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Company Petition No.3 of 2011.

Date of decision:29.04.2011

Ms.Puneet Brar and Another**Petitioners**

Versus

M/s.Tigaksha Metallica Pvt.Ltd.& Another**Respondents**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?¹ No.

For the Petitioners: Mr.Anuj Nag, Advocate.

For the Respondents:

Dev Darshan Sud,J.

The petitioners have approached this Court praying for an order of winding up of the respondent-Company on the allegations that the respondent-Company is unable to pay its debts despite statutory notice having been served on the respondents.

2. The pleading is that the petitioners entered into a lease agreement dated 26.6.2009 with the respondent-Company for premises bearing house No.609, 16-D, Chandigarh, measuring about 1090 square yards. It is alleged that the agreement was entered into by the respondents through a duly authorized signatory Shri Surinder Singh Bindra. The lease deed was duly

¹ *Whether the reporters of Local Papers may be allowed to see the judgement?*

Yes.

registered in the office of Sub Registrar, Chandigarh at Sr.No.1722, Book No.1, Volume No.179 on 26.6.2009. It is pleaded that these premises were leased out to the Company for residential purposes for a period of three years from 1.6.2009 to 31.5.2012 and rental was Rs.59,000/- per month payable on or before the 10th day of every calendar month. One of the other terms of this lease deed is that the advance monthly rent was to be deposited in Saving Bank Account No.14838 of Ms.Punit Brar and Saving Bank Account No.12942 of Ms.Navreet Brar with the Punjab & Sind Bank at Mohali, Punjab. It is then pleaded that the lease money has been paid up to 18.6.2010, thereafter, no money has been paid and for this purpose, a notice under Section 434 of the Companies Act, 1956 was served on the respondents at their registered office in Shed No.1-8, Industrial Estate, Shoghi, District Shimla, H.P. and House No.609, Sector 16-D, Chandigarh. On the failure of respondents to pay this amount, the petitioners were left with no other option but to file the present petition.

3. On the question of jurisdiction, learned counsel for the petitioners relies upon the decisions of the Punjab and Haryana High Court in **Data Computer Services vs. Northern Digital Exchange Ltd., 1998 (92) Company Cases, 363., D.C.M. Financial Services Limited vs. Prithpal Singh Construction Co., 2002 (109) Company Cases 654** and the Gujarat High Court in **LKP Merchant**

Financing Ltd. vs. Arvin Liquid Gases Limited,
2001(103) Company Cases 211. The submission is that it is the Company Court, where the registered office of the Company situated, which will have jurisdiction to entertain the petition.

4. What I find in the present case is that the petition has been filed basically to settle a rent dispute with respect to the property which is situated at Chandigarh. In case the petitioners have any remedy under the Civil Law/Rent Act applicable at Chandigarh, the dispute regarding non-payment of leased money can be settled there. I find that the petition is nothing but a colourable way of invoking jurisdiction of this Court to settle a rent dispute. I, therefore, decline to entertain this petition leaving it open to the parties to settle the dispute with respect to the payment/non-payment of rent at Chandigarh.

It would of-course have been different case altogether in case the debts of the petitioners had been acknowledged by the respondents in its balance sheet.

April 29, 2011
(aks)

(Dev Darshan Sud)
Judge.