IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2025
(arising out of SLP(C) Nos. 15347-15348 of 2020)

PUNJAB NATIONAL BANK ..... APPELLANT(S)

VERSUS

ATIN ARORA & ANR. ..... RESPONDENT(S)

O R D E R

Application for intervention/impleadment is allowed, subject to all just exceptions.

2. **Leave granted.**

3. **We are clearly of the view that the High Court erred in entertaining the petition under Article 227 of the Constitution of India, in setting aside the order passed by the National Company Law Tribunal[1], Kolkata Bench, Kolkata, rejecting the application for recall of the order of admission.**

4. **The High Court, while exercising its discretion, overlooked the provisions of Section 21 of the Code of Civil Procedure, 1908,[2]**

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[1] **For short, "NCLT."**

[2] **"21. Objections to jurisdiction.— (1)No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.**

(2) No objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity, and, in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of

whose principles and rule should be applied in the present case. The principle enjoins that objections regarding the place of suing shall not be allowed unless such objection is taken in the Court/tribunal of first instance at the earliest possible opportunity. This Court, in *Harshad Chiman Lal Modi* v. *DLF Universal Ltd. and Anr.,*[3] has held that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. These principles were reiterated by this Court in *Subhash Mahadevasa Habib* v. *Nemasa Ambasa Dharmadas (Dead) by LRS. and Ors.*[4]

5. When we turn to the facts of the present case, the following are noticeable:

⇒ The order dated 16.01.2018 of the Ministry of Corporate Affairs, Kolkata, which allowed the change of the registered address of respondent no. 2, M/s. George Distributors Pvt. Ltd., from Kolkata, West Bengal, to Cuttack, Odisha, was never informed to the appellant, Punjab National Bank[5].

⇒ On 09.01.2019, the appellant, PNB, filed a petition/application under Section 7 of the Insolvency and Bankruptcy Code, 2016[6]

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justice.

(3) No objection as to the competence of the executing Court with reference to the local limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the executing Court at the earliest possible opportunity, and unless there has been a consequent failure of justice.

[3] (2005) 7 SCC 791.

[4] (2007) 13 SCC 650.

[5] For short, "PNB".

[6] For short, "IBC."

before NCLT, Kolkata.

⇒ **NCLT, Kolkata served notices on the said petition/application, as per the track consignment report of the Speed Post of India.**

⇒ **The respondent company and its director were aware of these proceedings initiated by the appellant. On 11.02.2019, they had themselves called upon the Advocate for the appellant to hand over a copy of the petition/application.**

⇒ **On 05.09.2019, the petition/application under Section 7 of IBC was admitted for hearing.**

⇒ **Only on 11.03.2019 was a Bench of the NCLT, Cuttack, first constituted *vide* an office order.**

6. **The impugned judgment, refers to the order dated 16.01.2018 of the Ministry of Corporate Affairs, Kolkata, which had permitted change of registered address of the respondent no.2 from Kolkata, West Bengal to Cuttack, Odisha. However, during the course of arguments, it was accepted that the respondent no.2, M/s. George Distributors Pvt. Ltd., never intimated and informed the appellant, PNB, about the change of the registered address. The contention that the e-Form No.INC-23 bearing SRN No. G51026300 for undergoing a change of registered address was quoted in the petition/application under Section 7 of the IBC**

would not reflect information/knowledge about the change of address. The High Court, in our opinion, remained oblivious to the limited role and jurisdiction of superintendence in exercising power under Article 227 of the Constitution as well as in not fully examining the apparent facts as well as consequences of setting aside the order of admission under the IBC.

7. Given these circumstances, we allow the present appeals and set aside the order dated 13.08.2020 passed by the High Court at Calcutta, allowing C.O. No. 3894/2019 with CAN 12340/2019 filed by respondent no. 1, Atin Arora.

8. The petition will be treated as dismissed. Consequences will flow. Proceedings under the IBC will continue in accordance with the law. We, however, clarify that this order will not, in any way, affect the rights of Atin Arora, M/s. George Distributors Pvt. Ltd. or its other Directors from taking recourse to any other remedy, available to them, per law.

9. Pending application(s), if any, shall stand disposed of.

.....CJI.
(SANJIV KHANNA)

.....J.
(SANJAY KUMAR)

NEW DELHI;

JANUARY 03, 2025.

ITEM NO.31 COURT NO.1 SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) Nos. 15347-15348/2020

[Arising out of impugned final judgment and order dated 13-08-2020 in CO No. 3894/2019 with CAN No. 12340/2019 passed by the High Court at Calcutta]

PUNJAB NATIONAL BANK **Petitioner(s)**

VERSUS

ATIN ARORA & ANR. **Respondent(s)**

(IA No. 10406/2021 - INTERVENTION/IMPLEADMENT)

Date : 03-01-2025 This matter was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) **Ms. Arti Singh, AOR**
Mr. Aakashdeep Singh Roda, Adv.

For Respondent(s)
Mr. Chinmoy Pradip Sharma, Sr. Adv.
Mr. Dhruv Surana, Adv.
Ms. Ravina Sharma, Adv.
Mr. Arya Hardik, Adv.
Mr. Rajeev Ahuja, Adv.
Mr. Krishnajyoti Deka, Adv.
Mr. Rohit Amit Sthalekar, AOR
Mr. Ashish Choudhury, Adv.
Mr. Vijay Deora, Adv.
Mr. Irfan Hasieb, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

Application for intervention/impleadment is allowed, subject to all just exceptions.

Leave granted.

The present appeals are allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUGLANI) **(R.S. NARAYANAN)**
AR-CUM-PS **ASSISTANT REGISTRAR**
(signed order is placed on the file)