

and prosecute an action against the above-named company for the recovery of money, instead of making their claim in the winding-up proceeding before the Local Master at Ottawa, to whom the powers of the Court had been delegated, under the Dominion Winding-up Act, R.S.C. 1906 ch. 144. See ante 48.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

H. M. Mowat, K.C., for the appellant.

G. H. Sedgewick, for the British Columbia Hop Company Limited, respondents.

At the conclusion of the argument, the judgment of the Court was delivered by MEREDITH, C.J.C.P., who said that there was nothing more involved in the respondents' claim than a large sum and ordinary questions of law and fact. All proceedings affecting the winding-up of a company should be taken in the winding-up matter, and the bringing of an action should not be permitted unless some special circumstances make such an additional proceeding necessary or advisable for some very substantial reason.

Reference to secs. 22, 23, and 133 of the Act; *In re Pacaya Rubber and Produce Co. Limited*, [1913] 1 Ch. 218; *Thames Plate Glass Co. v. Land and Sea Telegraph Construction Co.* (1871), L.R. 6 Ch. 643; S.C. (1870), L.R. 11 Eq. 248; *Re Toronto Cream and Butter Co. Limited* (1909), 14 O.W.R. 81; *In re Lundy Granite Co.* (1871), L.R. 6 Ch. 463; *In re David Lloyd & Co.* (1877), 6 Ch. D. 339; *In re Henry Pound Son & Hutchins* (1889), 42 Ch. D. 402; *In re Longdendale Cotton Spinning Co.* (1878), L.R. 8 Ch. 150; *Stewart v. Le Page* (1915), 24 D.L.R. 554; S.C. (1916), 53 S.C.R. 337; *Currie v. Consolidated Kent Collieries Corporation Limited*, [1906] 1 K.B. 134.

The Court had no desire or intention to depart from the rule that an exercise of a discretion upon proper principles is not generally to be interfered with; in this case the Court was endeavouring to apply the principle properly applicable, which was not done in making the order in appeal.

The appeal was allowed, the order appealed against discharged, and the motion for it dismissed.