

TEETZEL, J.:—A winding-up order with a reference to the Master in Ordinary was made after the announcement of the action. On 18th September plaintiffs, upon notice to the liquidator of the defendant company, but without notice to defendants the Bank of Hamilton, obtained an order from the Chancellor, sitting in Chambers, giving leave to the plaintiffs to proceed with the action . . . notwithstanding the issue of the order to wind up the defendant company.

The defendants the Bank of Hamilton claim to be assignees of unpaid calls on the stock in the defendant company subscribed by the plaintiffs and others. The claim indorsed on the writ is to set aside plaintiffs' subscription for stock in the company, upon the grounds of misrepresentation and failure of consideration, and because conditions precedent to the same have not been carried out, also for a declaration that the assignment to the bank . . . is invalid and inoperative as against plaintiffs.

After the order of 18th September was settled, but before its entry, the Chancellor, on application of the Bank of Hamilton, granted leave for a motion . . . to set aside the order made by him.

The bank, as the principal creditors of the insolvent company, and holding assignments of unpaid calls as security for their claim, are chiefly interested in saving time and expense in ascertaining the validity of the stock subscriptions.

The Master in Ordinary has all the powers of a High Court Judge in the winding-up proceedings, and disputes between stockholders and the liquidator can be much more cheaply and expeditiously disposed of before him than in an action.

It seems to me that to entitle a plaintiff to an order allowing him to proceed with an action, he should shew such special or unusual circumstances as make it reasonably clear that the matters in question cannot be satisfactorily dealt with by the tribunal specially provided in the winding-up proceedings.

In this case no such special or unusual circumstances are disclosed.