

Shree Vallabh Glass Works Ltd., Etc.

Vs.

Industrial Credit and Investment Corporation of India Ltd. and Others

Transfer Petition No. 4 of 1987

(O. Chinnappa Reddy, V. Khalid JJ)

28.04.1987

ORDER

CHINNAPPA REDDY, J. -

1. In this application for transfer under article 139-A of the Constitution the petitioner seeks a transfer of Suit No. 2995 of 1986, Suit No. 3218 of 1986 and Suit No. 2220 of 1986 pending in the High Court of Bombay to the Gujarat High Court at Ahmedabad. The three suits are actions filed by secured creditors of the petitioner company to enforce their securities and to recover the amounts due to them. The company has its registered office in the State of Gujarat and employs nearly 2200 workers in its factories. The company is engaged in the production of sheet-glass. It appears that the company is in financial straits. Several petitions to wind-up the company appear to have been filed in the Gujarat High Court. Meanwhile the Government of Gujarat has declared the petitioner company as a Relief Undertaking under the Bombay Relief Undertaking (Special Provisions) Act, 1958. It appears that the company is now working under the supervision of a Managing Committee which until a short while ago consisted of two representatives of the financial institutions namely, the Industrial Credit and Investment Corporation of India Limited and the Industrial Development Bank of India and two representatives of the government of Gujarat. The representatives of the financial institutions have now withdrawn from the Managing Committee and thereafter the financial institutions appear to have instituted the suits to enforce their securities. The petitioner company wants the suits filed in the Bombay High Court to be transferred to the Gujarat High Court so that the same court may deal with the suits as well as winding-up proceedings and any further proceeding that may be taken for the purpose of rehabilitating the company. In the petition, the company has set out various steps which are being taken to pay off the creditors. The application for transfer is opposed strenuously by the financial institutions on the ground that secured creditors are outside the winding up proceedings and, therefore, it is unnecessary to transfer the suits to the Gujarat High Court. It is also stated that the proper procedure for the petitioner is to move the Bombay High Court for staying the suits under Section 442 of the Companies Act and that the petitioner has in fact filed such an application in the Bombay High Court. We have heard elaborate arguments from both sides. We are satisfied that genuine efforts are now being made to salvage the finances and fortunes of the company. It is not the future of the company alone that is at stake; it is also the future of the 2200 workmen employed by the company that is at stake. Any attempt to reconstruct the company will only be possible if one court deals with all the suits against the company as well as the proceedings under the Companies Act. It is true that the secured creditors are outside the winding up proceedings but when the question is one of rehabilitating the company, it is desirable that the company court should have a full and complete picture of the state of affairs of the company and there should be no conflicting orders from different courts in different suits. It is in that view that, in the particular circumstances of this case, we think it is best that the suits now

pending in the High Court of Bombay should be transferred to the Gujarat High Court where the proceedings under the Companies Act are pending. It is so ordered.

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