

SUPREME COURT OF INDIA

Mardia Chemicals Ltd.

Vs.

Union of India (UOI)

(V. N. Khare , Ashok Bhan and Arun Kumar JJ.)

04.10.2002

ORDER

W.P.(C)No. 541/2002

1. Issue notice.

2. Mr. S.N. Terdol, learned counsel, accepts notice on behalf of the U.O.I. Mr. Mukul Rohtagi, learned Additional Solicitor General prays for and is allowed two weeks' time to file counter affidavit. Rejoinder affidavit, if any, be filed in another two weeks. So far as respondent No. 2 is concerned, dasti service is also permitted in addition to usual mode of service. Notice shall indicate that the Bank may file counter affidavit within two weeks from the date of the receipt of such notice.

3. Issue notice on prayer for interim relief also. Meanwhile, it would be open to the secured creditors to proceed against the borrowers under sub-clauses (2) & (4) of Clause 13 of the Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002. However, they shall not part with the assets of the borrower by way of lease, assignment or sale.

4. It is made clear that this order will not preclude the secured creditors from taking recourse to any other alternatives provided under Clause 13(4) of the Ordinance.

In S.L.P.(C) No. 19787/2002

5. When this matter was taken up, Mr. Mukul Rohtagi, learned Additional Solicitor General, stated that as and when the respondents obtain the consent of other secured creditors , they shall intimate the same to the petitioners and at any time when a cause of action arises, it will be open to the petitioners to challenge the proceedings.

6. In view of the said statement, the Special Leave Petition is dismissed as withdrawn.

T.P.(C) Nos. 724-727/2002

7. Issue notice.

8. Mr. Bharat Sangal, learned counsel, accepts notice on behalf of IDBI. Mrs. P.S. Shroff, learned

counsel, accepts notice on behalf of ICICI Bank, L.I.C. of India & IndusInd Bank Ltd. Mr. S.N. Terdol, learned counsel, accepts notice on behalf of the U.O.I. They do not propose to file any counter affidavit. We, therefore, proceed to decide the matter in the absence of any counter affidavit.

9. The Transfer Petitions are allowed. CWP Nos. 5654, 5655, 5792 & 5798/2002 pending before the High Court of Delhi shall stand transferred to this Court and be heard along with W.P.(C)No. 541/2002.

10. Signed order in transfer petitions is placed on the file.

11. Issue notice.

12. Mr. Bharat Sangal, learned counsel, accepts notice on behalf of IDBI. Mrs. P.S. Shroff, learned counsel, accepts notice on behalf of ICICI Bank, L.I.C. of India & IndusInd Bank Ltd. Mr. S.N. Terdol, learned counsel, accepts notice on behalf of the U.O.I. They do not propose to file any counter affidavit. We, therefore, proceed to decide the matter in the absence of any counter affidavit.

13. Heard counsel.

14. We are satisfied that the petitioners have made out a case for transfer of the writ petitions pending before the High Court of Delhi to this Court. We, accordingly, direct that civil Writ Petition Nos. 5654, 5655, 5792 & 5798/2002 shall stand transferred to this Court and be heard along with W.P.(C) No. 541/2002.

15. The Transfer Petitions are, accordingly, allowed.