

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

O.S.A. No.3 of 2010

JUDGMENT: (*per Hon'ble Sri Justice V. Ramasubramanian*)

This appeal arises out of a petition for winding up filed by the appellant.

2. Heard Sri Deepak Bhattacharjee, learned counsel for the appellant and Sri Vedula Srinivas, learned counsel for the respondent.

3. The appellant herein was the petitioner/creditor in Company Petition No.23 of 2009 filed under Section 433(e) and (f) and Section 439 of the Companies Act, 1956, praying for winding up of the respondent herein. By a final order dated 06.08.2009, a learned Judge of this court dismissed the company petition, on the ground that the respondent has a *bona-fide* dispute with regard to the claim. Aggrieved by the said order, the appellant is before us.

4. It is now stated by Sri Vedula Srinivas, learned counsel appearing for the respondent that the respondent has already made an application before the B.I.F.R., for declaring it as a sick company and for issuing a scheme for rehabilitation under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985. The reference was taken on file in Case No.30 of 2015 under Section 15(1) of the Act, and a few hearings have already taken place. It appears that an operating agency has been appointed and a scheme for rehabilitation is under preparation. In such circumstances, the petition for winding up cannot be entertained. It is open to the appellant to workout its remedies either before the B.I.F.R. or renew their efforts after things reached finality before the B.I.F.R.

5. With the above observations, the appeal is dismissed. There is no order as to costs. Miscellaneous petitions pending if any this appeal, shall stand closed.

V.RAMASUBRAMANIAN, J

A. SHANKAR NARAYANA, J

Date: 08.07.2016
BSS

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AND
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