

(1956) 09 KL CK 0014

In the High Court Of Kerala

Case No : C.M.P. 431 of 1956 in C.M.P. No. 4 of 1953

A. Ananthasubramonia Ayyar

APPELLANT

Vs

The Official Receiver, Sitaram Spinning and Weaving Mills Ltd.

RESPONDENT

Date of Decision : 04-09-1956

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Companies Act, 1913 — Section 153, 153A, 153A(1), 153B, 153B(3)
Companies Act, 1956 — Section 10, 10(2), 237, 391, 392

Citation : (1956) 09 KL CK 0014

Hon'ble Judges : Nandana Menon, J

Bench : Single Bench

Advocate : K. Rama Iyer, for the Appellant; C.A. Ouseph, C.J. Antony, Public Prosecutor Devassy, C.S. Ananthakrishna Iyer, T. Chandrasekhara Menon, K. Achutha Menon, K. Narayanaswami, M.V. Sreedharan, T.S. Venkitachala Iyer, V. Sankara Menon and P. Janaki Amma, for the Respondent

Judgement

Nandana Menon, J.—This is a petition filed u/s 392 of the Indian Companies Act, 1 of 1956; Section 151 of the CPC and Section 20 of the Travancore-Cochin High Court Act. The prayer in the petition is for the transfer to this Court of the entire case and files now pending in the District Court of Trichur in Company M.P. No. 4 of 1953 of that court and continue the proceedings of winding up here. The circumstances leading to this petition are as: follows: The Sitaram Spinning and Weaving Mills Ltd., is a textile factory situated in Trichur. One of theeditors of the company filed M. P. No. 4 of 1953. in the Trichur District Court to wind rip the company compulsorily in view of its involved circumstances.

On 4th January 1954 the District Court passed orders to wind up the company. Liquidators were appointed. The working of the mills was entrusted, to the State Government under certain conditions as a provisional measure pending the liquidation proceedings as it was considered that that would facilitate the settlement of the affairs of the company but there was not much progress in framing a scheme and the court directed sale by public auction of the Company"s

assets.

Then on 7-6-1955 the present Petitioner filed M.P. No. 073 of 1955 purporting to lie one u/s 153 of the Indian Companies Act of 1913 and Rule 52 of the rules framed by this High Court under the said Act for sanction of an arrangement between the Company and its creditors. It was prayed that the court might order the convening of a meeting of the, creditors of the Company by the lineal liquidators ,for the consideration of the schema proposed and pending the meeting the sale of the assets of the company directed to be conducted might be stayed.

The court allowed the convening of a meeting lias; prayed for. In that meeting creditors to whom more than 3/4ths of the debts of the company were due agreed to accept in full satisfaction of their claims eight annas in the rupee or 13 1/2 lakhs, whichever was small. The Official Liquidators were confident of collecting five and odd lakhs of rupees and with regard to the balance of eight and odd lakhs considered necessary the Travancore-Cochin Government which was working the mills offered to advance tire .said sum if the mills were mortgaged to the State.

This offer was accepted on behalf of the creditors and the share-holders. The court approved the suggestion to mortgage and allows the State to work the company. The mortgage was executed and the .possession of the Mills handed over to the State on Receipt of 88 lakhs of rupees from the State. The final sanction of the compromise proposals was as per order of the Liquidation Court dated 23-3-1956. The Liquidators were directed to prepare the creditors" list and take steps to distribute the amounts due to them as per the terms, of the compromise.

When matters were at this stage the Indian Companies Act of 1956 came into force from 1st of April 1956. "Though 8J lakhs of rupees had been received from the State by the Liquidators no progress" 1 ""who" made with regard to the distribution of the same to the creditors. The present petition was filed Are 13-6-1956. The Petitioner averred that the amount received from the State was deposited at a far to Abs rate of interest in one of the local, bank", that the" distribution of the amount among the creditors .had to await the settlement of their claims by the court and that urgent orders were called for by way J of further directions for implementing the District Court"s order dated 28-3-1956 sanctioning the J compromise.

Then according to the Petitioner, after coming into force: of-the Companies Act, 1 of 1956, the Trichur District Court had ceased to have jurisdiction to deal with winding up of the company as u/s 10 of the Act the Court having jurisdiction is only the High Court tm the power to supervise the carrying out of the arrangement sanctioned u/s 153 of Act VII of 1913 was also exclusively vested in the High Court u/s 392 of Act I of 1956. So it was prayed that proceedings in the District Court of Trichur with regard to the liquidation might be transferred to this

Court.

The petition is opposed by some of the parties to whom notice had been ordered. The objections of the party impleaded as per order on C. M. P. 292 of 1956 are as follows: He is a share-holder of the Sitaram Spinning and Weaving" Mills Ltd., having been one of its directors for long time. The prayer for transfer cannot stand as the provisions of the Companies Act I of 1956 relating to winding up of companies did not apply to pending proceedings and the Act did not deprive the District Court of Trichur of its jurisdiction to deal with the winding up proceedings pending before it. He had filed M. P. 2763 of 1956 in the District Court claiming that Section 153 of the Indian Companies Act of 1913 would not apply to the instant case, No orders had been passed upon that. Before the question of applicability of that section is decided the prayer to enforce orders arising u/s 391 of the Companies Act of 1956 cannot be entertained. Section 391 was not applicable to the, proceedings in question. Before the sanctioning of &j scheme u/ s 153 of the Companies Act of 1913 the court should be satisfied of certain conditions which have not been complied with in the present case. It was also pointed out that the liquidators and interested parties will be very much inconvenienced if the proceedings were transferred to the High Court. The same sort of objections were raised by others.

2. The main question that arises for consideration is whether in view of the coming into force of the Companies Act 1 of 1956, the Trichur District Court has lost its jurisdiction to continue the liquidation proceedings in company M. P. No. 4 of 1953 of that Court. On behalf of the Petitioner the provisions relied upon are Sections 10, 391 and 392 of the Companies Act 1 of 1956 Section 10 which deals with the jurisdiction of courts is as follows:

10. Jurisdiction of Courts: (1) The court having jurisdiction under this Act shall be:

(a) the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any" District Court or District Courts subordinate to that High Court in pursuance of Sub-section (2); and (b) where jurisdiction has been so conferred, the District Court in regard to matters falling within the scope of the jurisdiction conferred, in respect of i Companies having their registered offices in the District;

(2) The Central Government may, by notification in the Official Gazette and subject to such restrictions, limitations and conditions as it thinks fit, power any District Court to exercise all or any of the jurisdiction conferred by this Act upon the court not being the jurisdiction conferred-

(a) in respect of companies generally, by Sections 237, 391, 394, 395 and 397 to 407, both inclusive;

(b) in respect of companies with a paid-up share capital of not less than one lakh

of rupees, by Part VII (Sections 425 to 560) and the other provisions of this Act relating to the winding up of companies.

(3) For the purposes of jurisdiction to wind up companies, the expression ""registered office" means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

Thus, under this section wherever jurisdiction has not been conferred on any District Court in pursuance of Sub-section (2) the High Court is the only court having jurisdiction under the Act. Sub-section (2) says that the District Courts may be cm-powered to exercise the jurisdiction vested in the High Court under the Act by a notification by the Central Government except with regard to jurisdiction conferred under the Act under the specific sections mentioned in Sub-Section 2(a) and with regard to companies with a paid-up capital of not less than one lakh of rupees as contemplated under Sub-Section 2 (b). In the present case the company which is under liquidation is one having more than a paid-up share capital of one lakh of rupees and hence it comes under Sub-Section 2 (b).

So if Section 10(2)(b) applies pending liquidation proceedings, in view of the provisions in the said Sub-section itself it is clear that the Trichur District Court has no jurisdiction to continue the liquidation proceedings. Then there is no need of going into the-applicability of Sub-Section 2(a). So I will first of all deal with the applicability of Sub-Section 2(b). What is urged on behalf of die opposing counter-Petitioner is that Section 647 of the Companies Act of 195G clearly shows that pending proceedings are not affected by the new provisions in the Act. The said section is as follows:

647. Saving of pending proceedings for winding up-

Where the winding up of a company has commend before the commencement of this Act-

(i) Sub-section (7) of Section 555 shall apply in respect of any moneys paid into the Companies Liquidation Account whether before or after such commencement; and (ii) the other provisions with respect to winding up contained in this Act shall not apply, but the company shall be wound up in the same manner and with the same incidents as if this Act had not been passed.

The wording in Sub-clause (ii) is clear enough to show that with regard to winding up proceedings commenced before the Act further proceedings in the winding up shall be as if the present Act has not been passed. If the Companies Act of 1956 had not been passed the winding up can only be under the Companies Act of 1913 under which the liquidation proceedings of the Sitaram Mills were initiated and continued till now. The jurisdiction of the District Court to take cognizance of the liquidation proceedings under the Companies Act of 1913 was never questioned.

On behalf of the Petitioner it was argued that though u/s 3 of the Companies Act

of 1913 the local Governments were authorised by notification in the official Gazette to empower any District Court to exercise any of the jurisdiction under the said Act there was no proper notification here. Now as per the notification dated 27th September 1951 in exercise of the powers conferred by Sub-section (1) of Section 3 of the Indian Companies Act, 1913 read with Government of India Notification S. A. Order 761 dated 23rd May 1951 published in the Gazette dated 2nd October 1951 the District Court of Trichur was duly authorised.

So the power of the said court to function as a court duly authorised to act under the Companies Act of 1913 is clear. The relevant provisions with regard to pending proceedings identical with those contained in Section 647 of the Companies Act of 1956 is contained in Section 284 of the Companies Act of 1913. The said section is as follows:

The provision of this Act with respect to winding up shall not apply to any company of which the winding up has commenced before the commencement, of this Act, but every such company shall be wound up in the same manner and with the same incidents as if this Act had not been passed, and for the purposes of the winding up, the Indian Companies Act, 1882, shall be deemed to remain in full force.

Counsel for the Petitioner pointed out that in Section 647(h) of the present Act it is not said that the-Act of 1913 shall be deemed to remain in full force] with regard to pending proceedings whereas in Section 284 of the Act of 1913 it was specifically stated that the Act prior to that would apply. This difference in the; drafting of the section, according to rue, does not, affect the legal effect of this sub-clause Section 647 (i) says that Sub-section (7) of Section 555 shall apply with regard to the amounts paid into the Companies Liquidation Accounts before or after such commencement.

That makes it clear that that is the only Sub-section in the Act of 1956 which would apply to pending proceedings. Khiali Ram v. The Official Liquidators of the Peoples" Bank of India Ltd. 28 Lid Cas 600 : AIR 1915 Lah 415) (A) and Dault Rai v. Nazir Chanel, 29 Ind Cas 272 : AIR 1914 Lah 511) (B) deal with the effect" of Section 284 of the Companies Act of 1913. It was held that the said Section clearly vested the District Courts with jurisdiction to continue the liquidation proceedings started before the coming into force of the Act of 1913; The following observations in 29 Ind Cas 272 at p. 273 : AIR 1914 Lah 511 (512) (B) may be pointed out:

The learned Counsel for the Petitioner, however, contends that the section has application only in the "manner" and "incidents" of the winding up, and has no reference to the jurisdiction of the Court. I am unable to accept the contention. This argument ignores the opening and the concluding clauses of the sentence, which show unmistakably tire intention of the Legislature. It is an elementary rule that construction is to be made of all the parties together and not of one part only by itself. Incivility nisi tutelage prospect, unaaliqua particulaejus

proposition, and I am a level responder.

Such a survey is always indispensable even when the words are the plainest, for the true meaning of any passage is that which best harmonises with the subject and with every other passage, of the Statute (Vide Maxwell on the Interpretation of Statutes, 4th Edition, page 42). If I were to accept the contention put forward on behalf of the Petitioner, I would have to apply to the pending proceedings a hybrid law, consisting of a portion of the new Act. Such a result was, in my judgment, foreign to the intention of the Legislature.

Taking the Section as a whole, I have no hesitation in holding that its plain and rational meaning is that the new Act operates upon proceedings arising out of the winding up which commenced after its enforcement and that no part of the Act has application to the pending liquidations.

According to me the interpretation to be placed upon Section 284 of the Companies Act of 1913 is the same as that to be placed upon Section 647, sub-clause . (ii). *Hem Raj v. Beant Singh*, 68 Ind Cas 792 : AIR 1923 Lah 98) (C) also lays down the same principle. Of the decisions cited dealing with general principles with regard to the interpretation of statutes when the question of their effect on pending proceedings comes up for consideration one is *Shib Nath Banerjee and Others Vs. A.E. Porter and Others*, There at page 390 it is observed as follows:

Cases where the statute under consideration uses no words giving its provision retrospective operation are simple. There pending actions and proceedings would not be affected. But where the statute gives its provisions retrospective operation in express terms it would be a matter for consideration how far the retrospective operation extended and whether pending actions were intended to be affected by it. The question finally resolves itself into a matter of construction. In my judgment express words are not essential in order that a statute may apply to pending actions or proceedings.

It is enough if that intention can be inferred, and for ascertaining the intention of the Legislature not only the meaning of words used in the enactment but also the object of the enactment must be kept in view. In fact the object of the enactment as gathered from its provisions would be a very important matter. In *King v. The General Commissioners of Income Tax for Southampton*, (1916) 2 KB 249 (E) Lord Reading C.J. laid down the law thus:

"I cannot accept the contention of the applicant that an enactment can only take away vested rights of action, for which legal proceedings have been commenced, if there are in the enactment express words to that effect. There is no authority for this proposition, and I do not see why in principle it should be the law. But it is necessary that clear-language should be used to make the retrospective effect applicable to proceedings commenced before the passing of the statute." In *Quilter v. Mapleson*, (1883) 9 QBD 072 (F) where the statute in question did not in express terms say that its provisions were to apply to pending actions Sir

George Jessed held the enactment to be applicable to pending actions, observing thus at p. 675 of the report:

"We must therefore in furtherance of the objects of the Act, hold the enactment to apply to pending proceedings, unless there is something in the words to prevent our doing so.

In my judgment, it is on this principle that the case in AIR 1936 49 (Privy Council) has proceeded. The principle is that if the object of an Act, and that object must be gathered from the words of the enactment, itself requires that the Act should apply to pending proceedings, it will be so applied, unless there is a saving clause in the Act itself to the effect that it would not apply to pending proceedings.

Here there is a definite saving clause in Section 647 of the present Act. When such is the case there is no force at all in the argument advanced on behalf of the Petitioner that the general purpose of the present Act investing powers in the High Court is to see that proceedings with regard to companies should come under the supervision of a higher forum and hence Section 647 cannot be interpreted as not affecting pending proceedings in the District Court.

So it is clear that with regard to pending proceedings dealing with liquidation of companies with more than one lakh capital Section 10(2)(b) will not apply. Hence the jurisdiction of the Trichur District Court with regard to the instant proceedings cannot be challenged on the basis of the provisions in the aforesaid Sub-section. .

3. Then I will come to the question as to whether Section 10 (2) (a) can be invoked by the Petitioner in support of his position that the jurisdiction of the District Court of Trichur to deal with further proceedings connected with the settlement of the claims of the creditors has ceased. Section 10(2) (a) is to the effect that the Central Government by notification can empower any District Court to exercise all or any of the jurisdiction conferred under the Act upon the Court not being the jurisdiction however .

in respect of companies generally by Sections 237, 391, 395 and 397 to 407 both inclusive.

What is urged is that the arrangement sanctioned as per the order of the District Court in M. P. No. 973 of 1955 in Company M. P. No. 4 of 1953 comes under the purview of Sections 391 and 392 of the present Act and hence in view of Section 10(2)(a) whatever be the powers of the District Court to continue the liquidation proceedings initiated prior to the coming into force of the present Act it has no power at all to deal with matters coming u/s 391 as in the Act it is specifically stated that with regard to such matters the High Court alone has jurisdiction and no delegation is possible. Section 391 deals, with "power to compromise or make arrangements " with creditors and members." Sub-section (1) is as follows:

Where a compromise or arrangement is proposed:

(a) between a company and its creditors or any class of them; or (b) between a company and its members or any class of them;

The court may, on the application of the company or of any creditor or member of the company. or in the case of a company which is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the court directs.

This provision is identical with Section 153(i) of the Companies Act of 1913. M.P. 973 of 1955 was filed u/s 153 of the Companies Act of 1913 as stated therein. The reliefs prayed for clearly bring it under the said section also. There is no merit at all in the argument advanced on behalf of the opposing parties to the effect that an arrangement as the one Allowed as per the orders of the court in that petition is really not a compromise or arrangement as contemplated u/s 153 of the Companies Act of 1913.

It has to be borne in mind that Section 153 covers not only compromises but arrangements. The following observations of Sri N.N. Sircar in his commentaries u/s 153 of the Act of 1913 (1937 Edition) at page 396 may be pointed out:

It is difficult to define exactly what an arrangement means. It is a word of wide import, and although at one stage it was held that the two words were really synonymous, this view has been discarded. Thus as compared with the word compromise, it is not necessary for an arrangement that there should be some dispute or controversy. In *re Guardian Assurance Co.*, (1917) 1 Ch 431 (II) and In *re Barclay's Bank Ltd.*, (1918) 62 SJ 752 (I).

In the case of *In re General Motor Car Co. Ltd.*, (1913) 1 Oh 377 (J), Buckley, J. in dealing with the words "compromise" and "arrangement" said: Arrangement no doubt is a larger word than compromise. The word arrangement I think in that section must mean something analogous in some sense to compromise. A similar view was taken by North J. in the case *In re Alabama New Orleans etc. Ry. Co.*, (1891) 1 Chn 213 at p. 228 (K), where he treated the words compromise and arrangement as synonymous. This view however was not accepted in the case of *In re Guardian Assurance Co.* (1917) 1 Chn 431 (H), and as at present understood it is clear that the two words mean entirely different things.

So the arrangement in question here was covered by Section 153 of the Act of 1913 corresponding to Section 391 of the present Act. Further, it has to be pointed out that the Trichur District Court dealt with M. P. 933/53 as a petition u/s 153 of the Act of 1913. *Kamalapat v. U.I. Sugar Mills Co.* AIR 1929 PC 256 (L), is an authority cited on behalf of the Petitioner to show that under such circumstances no contention that the matter was not covered by Section 153 of the Act of 1913 can be raised.

Similarly the argument that the order passed in M. P. 933 of 1953 does not

satisfy the requirements of the Rules framed by this High Court under the Companies Act of 1913 with regard to Section 153 and hence cannot be dealt with as an order under that section also has no force at all. Here the question is not whether the particular order is in any way vitiated. What is to be considered is only as to under what section the order was passed. As pointed out before the said order must be considered as one falling u/s 153 of the Act of 1913.

4. What is urged then on behalf of the Petitioner is that when such is the case Section 392 and Section 10 of the present Act clearly affect the further implementation of the order approving the arrangement and in view of the provisions of the same the District Court has no jurisdiction in the matter. Section 392 of the present Act is as follows:

392. Power of High Court to enforce schemes of arrangements etc.:

(1) Where a High Court makes an order u/s 391 sanctioning a compromise or an arrangement in respect of a company, it-

(a) shall have power to supervise the carrying out of the compromise or arrangement; and (b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper working of the compromise or arrangement.

(2) If the Court aforesaid is satisfied that a compromise or arrangement sanctioned u/s 391 cannot be worked satisfactorily with or without modifications, it may, either on its own motion or on the application of any person interested in the affairs of the company, make an order winding up the company, and such an order shall be deemed to be an order made u/s 433 of the said Act.

(3) The provisions of this section shall, so far as may be, also apply to a company in respect of which an order has been made before the commencement of this Act u/s 153 of the Indian Companies Act, 1913, (7 of 1913), sanctioning a compromise or "an arrangement.

Reliance is placed on Sub-Section 3 in support of the argument that whatever be the effect of Section 647 with regard to other kind of pending proceedings as for those arising out of an order u/s 153 a District Court cannot function as a court of continuing jurisdiction. Sub-Section 3 says that the provisions u/s 392 shall so far as may be applied to orders passed before the commencement of the Act u/s 153 of the Act of 1913.

I have already pointed out that the order passed on 21-3-1956 by the District Court in M.P. 573 of 1955 is one u/s 153 of the Act of 1913. It is urged that as in Sub-Section 1 of S. 392 the reference is to powers of High Court, so the said court alone can further continue the proceedings arising out of an order contemplated under Sub-Section 3. The question is whether this argument can be accepted. As pointed out by the counsel for the opposing Respondents S. 392 is a new section which seems to have been introduced as a result of certain

observations in *Bhagavathi v. New Bank of India* AIR 1950 AP 111 (FB) (M).

There the main question that arose for consideration was whether when a scheme being not one in the course of winding up of a company was sanctioned by the court u/s 153 the court can reserve the power to deal with questions arising out of that scheme and will obtain jurisdiction to deal with such matters. In para 13 of the judgment the learned Chief Justice observes as follows:

For the reasons stated above I am satisfied that the doubts that I entertained when these applications came before me as the Company Judge were well founded. The conclusions I have come to may now be summarised:

(1) When a scheme is sanctioned by the winding-up court in course of winding up, the Court may stay the winding up except for the purpose of giving effect to the scheme. In such a case the Court may exercise the powers of the winding up Court in matters arising under or out of the scheme as matters arising in winding up;

(2) When a scheme is of the kind mentioned in Section 153A or Section 153B, Companies Act, and is sanctioned even otherwise than in course of winding up, even then the Court may by the order sanctioning the scheme or by any subsequent order make provision for all or any of the matters mentioned in the several clauses of Sub-section (1) of S. 153-A or Section 153-B; (3) Where scheme which is not of the kind mentioned, in S. 153-A or S. 153-B is sanctioned otherwise, than in the course of winding up, the court sanctioning the scheme has no further seizin on the scheme and has no jurisdiction or power as the Company Court to entertain any application for enforcing the scheme, or modifying the scheme or adjudicate upon the rights of parties arising under or out of the scheme and parties claiming under the scheme or dehorn the scheme must assert their rights in regular suits or other proceedings as may be possible in law;

(4) Neither the Company, nor the creditors nor tile members can by a provision in the scheme which is within Clause (3) above confer jurisdiction on this Court which this Court does not either under the East Punjab High Court Order read with the Letters Patent of the Lahore High Court or under the Indian Companies Act or otherwise possessd.

(5) Nor can the Court by sanctioning a scheme which comes within Clause (3) above including a clause reserving power to the Court to entertain applications subsequent to the sanction arrogate to itself powers and jurisdictions which it does not either under the East Punjab High Court Order read with the Letters Patent of the Lahore High Court or the Indian Companies Act or otherwise possess.

Tested in the light of the principles enunciated above the schemes with respect to which the applications which are now before us have been made come under Clause (3) above and it must be held that this Court had no jurisdiction to

entertain any of them. These applications must, therefore, be laid before the Company Judge to be disposed of in the light of the decision of this Full Bench.

Sections 153-A and 153-B of the Companies Act of 1913 dealt with certain special classes of schemes while Section 153 was a general section. Then in para 14 the defects in the Companies Act of 1913 leading to the conclusion arrived at in the aforesaid para were referred to and the following observations made:

Although I have not been able, for reasons stated above, to support the practice that has heretofore been followed by this Court, I must say that that practice had the merit of providing a convenient forum for expeditious disposal of all disputes arising under or out of the scheme and saved the companies working under scheme sanctioned by the Court u/s 153 as well as the creditors from long drawn litigations from Court to Court.

In my judgment provision should be made in our Companies Act enabling the Court sanctioning a scheme to make orders for enforcing the scheme and all other ancillary, incidental or consequential orders... It will now be for the legislature to consider the desirability of amending Section 153 by introducing a Sub-section on the lines of Clause (1) of Sub-section 1 of Section 153A.

Now Section 392 of the present Act specifically vests the High Court with the power of dealing with matters arising out of a scheme approved u/s 391 corresponding to S. 153 of the Act of 1913. The difficulty pointed out in the East Punjab Case (M)" was only with regard to the absence of a provision vesting the court which passed the scheme when it is, not, during winding up proceedings to deal with the matters; arising, out of the sanctioning, of: such- a scheme, As pointed out, there even under the Act of 1913 the jurisdiction; of a court to deal with matters arising out of orders sanctioning an arrangement or a scheme during winding up proceedings was recognised.

This decision makes it clear why Sub-section (3) of Section 392 was introduced in the present Act of 1956, That was intended only to vest in the High Court the jurisdiction to deal with incidental matters arising out of an order sanctioning a scheme by a District Court or a High Court as the case may be u/s 153 of the Act of 1913 when the same was not in the course of winding up proceedings of a company. The words so far as may be" make it plain that every order passed u/s 153 of the Act of 1913 was not intended to be brought within the purview of Section 392 of the present Act.

If the order passed by the Trichur District Court on 28-3-1956 had not been an order during the winding up proceedings of the Sitaram Mills but an order coming under other categories contemplated u/s 153 of the Act of 1913 clearly that would have been covered by Section 392 (3) of the present Act and the High Court alone have the jurisdiction to deal further with the incidental matters arising out of such an order. The Trichur District . Court would have no further jurisdiction to deal with the same. But here the order passed on 28-3-1956 being one u/s 153 of the Act, of 1913 in the winding up proceedings of the Sitaram

Mills it is not affected by the present Section 392 (3).

Thus this provision is not in conflict with the provision contained in S. 647 of the present Act. So Ss. 10(a), 391 and 392 of the Act of 1956 do not override the provisions of Section 647 of the same Act with regard to the proceedings arising from the sanction of the arrangement as per order of the Trichur District on 28-3-1956 in M. P. 973 .of 1955. Section 647 saves jurisdiction of the District Court with regard to these matters also. So the District Court has got full jurisdiction to deal with every matter arising out of the liquidation proceedings in Company M. P. No. 4 of 1953 with regard to the Sitaram Mills. Hence the ground urged for transfer, viz., that the District Court has no jurisdiction, cannot stand. No transfer "can be ordered on that basis.

5. Finally it was urged on behalf of the Petitioner that if the proceedings are transferred to this Court expeditious disposal can be expected and that though 8 1/2 lakhs of rupees have been received from Government and deposited in a Bank at a low rate of interest no concrete action to make the same available to creditors has been taken. I do not think that this will be a ground to justify the transfer. The Company is situated at Trichur.

The Liquidators and parties will find it much more convenient if the proceedings continue in the District Court of Trichur. There is some force in the argument advanced on behalf of the Petitioner that the liquidation proceedings are not being expeditiously dealt with. The District Judge will cure that defect. But as pointed out before no ground for transfer exists. Hence the petition is dismissed. The parties are to bear their own costs.