
(2003) 01 RAJ CK 0024
In the Rajasthan High Court
Case No : Company Petition No. 25 of 2000

Industrial Development Bank of India	APPELLANT
Vs	
Solartech (India) Ltd.	RESPONDENT

Date of Decision : 31-01-2003

Acts Referred:

Companies Act, 1956 — Section 439

Citation : (2003) 47 SCL 550

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : G.K. Garg, for the Appellant;

Judgement

S.K. Keshote, J.—This petition under Sections 433(e), 434 and 439 of the Companies Act, 1956 is filed by the Industrial Development Bank of India and prayer has been made therein for a direction for winding up of the respondent company. This winding up of the respondent company is sought for on the ground of its inability to pay the debts of the Bank.

2. The petition was presented on 18-4-2000. On 13th July, 2000 the court has been pleased to issue show-cause notice to the respondent company. The notices sent for the date were received unserved. The notices were received with the report that earlier at the given address the registered office of the company was there but now the landlord of the premises is occupying the same. On 31st July, 2000 the court pleased to issue fresh notices to the respondent company both by ordinary process as well as by registered post. The notice which has been sent by registered post AD has been received unserved. The notice sent through ordinary process has not been received back.

3. In the facts of this case issuing fresh notices to the respondent company at its given address is not of any use. Issuing fresh notice to the respondent Company at the given address will be nothing but an exercise in futility and it will waste the valuable and precious judicial time of the court as well as the registry.

Otherwise also under the Company (Court) Rules it is not mandatory that before admitting the winding up petition a notice to show cause to the respondent company is must. It is at the discretion of the court. In the facts of this case the only mode which is left with the petitioner to get show-cause notice serve by publication thereof in the newspaper. But the publication of notices in newspaper will heavily cost to the petitioner. It will be the sheer wastage of public money in case this mode is adopted.

4. As a result of the aforesaid discussion I am satisfied that this application filed by the petitioner deserves acceptance. Accordingly it is allowed.

5. The petition is admitted. The petitioner is directed to file the notices for advertisement of the petition and the date of hearing thereof. On filing of the notices the registry is directed to place the matter for fixing of the date of hearing of the petition and the names of the newspapers in which the publication thereof is to be made.