

(2011) 07 P&H CK 0098

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15363 of 2000 (O and M)

M/s Sukhna Paper Mills Limited

APPELLANT

Vs

Punjab State Electricity Board and Another

RESPONDENT

Date of Decision : 04-07-2011

Acts Referred:

Punjab Electricity Act, 1939 — Section 64, 9

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22

Citation : (2011) 163 PLR 694 : (2012) 1 RCR(Civil) 646

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—There is no representation for the petitioner. The writ petition contains a prayer for quashing the action taken by the Punjab Electricity Board for recovery of Rs. 56,11,770/- for electricity dues payable to the Board for recovery as arrears of land revenue. The petitioner's contention was that the proceedings were pending before BIFR and the recovery could not be proceeded with, without obtaining sanction from the BIFR. The Electricity Board contested the petitioner's claim by pointed reference to Section 9 of the Electricity Act which allows for any dues under the Act which remains unpaid as recoverable as arrears of land revenue. The contention was that such recovery u/s 9 cannot fall within the statutory interdict contained u/s 22 of the Sick Industrial Companies (Special Provisions) Act of 1983 (for short, "SICA").

2. On an application filed by the Electricity Board for vacating the order of stay of recovery in CM No. 4834 of 2007, this Court has passed a detailed order on 14.09.2007 vacating the interim order passed on 10.11.2000 as confirmed on 31.10.2001. This Court has stated that there had been a change of circumstance after the order of BIFR. An appeal had been filed by the petitioner himself and the Board had recommended to the Court for winding up of the petitioner-Company. It appears, however, that the reference for winding up of the Company

was dismissed by this Court on 27.04.2006 holding that all the claims of secured creditors had been settled. The Court has also observed that after dismissal of the petition for winding up, no further proceedings were still pending before the Board justifying the invocation of Section 22 of the SICA.

3. With the passing of the interim order on 14.09.2007, I am of the view that the relief in the main writ petition itself has become incapable of being granted. If the initial order declaring the petitioner-Company as sick was later modified by AIFR by a recommendation for winding up and when that reference was declined by this Court, it should only be taken that there is no proceeding pending under the SICA and there is no statutory bar for realization of the dues recoverable under the Punjab Electricity Act through Section 9 read with Section 64 which empowers the Electricity Board to secure the dues as arrears of land revenue. The reference to these provisions must be read in the context of any amended provisions and the change in law that has come about with the passing of the Electricity Act, 2003. In any event, there is no justification for affording to the petitioner any relief as sought for through the writ petition. The writ petition is, accordingly, dismissed.