

Ramkumar Vs. the Bharat Electrical and Industrial Corporation Ltd., Alwar

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Court : Rajasthan

Decided On : Sep-05-1958

Reported in : AIR1959Raj85

Judge : K.L. Bapna, Ag. C.J. and; I.N. Modi, J.

Acts : [Companies Act, 1956](#) - Sections 647; [Companies Act, 1913](#) - Sections 284

Appeal No. : Company case No. 9 of 1957

Appellant : Ramkumar

Respondent : The Bharat Electrical and Industrial Corporation Ltd., Alwar

Advocate for Def. : Marudhar Mridul, Adv.

Advocate for Pet/Ap. : Party in person

Judgement :

K.L. Bapna, Ag. C. J.

1. This is a reference to a Division Bench made by a learned Single Judge.

2. An application was made for winding up of the Bharat Electrical and Industrial Corporation Ltd. Alwar, (hereinafter referred to as the Company). The Company had a paid-up share capital of Rs. 5,80,000/-. An application for winding up was made in the High Court on the 26th November, 1954. It was transferred to the

court of the learned District Judge, Alwar, who had been invested with powers under the Indian [Companies Act, 1913](#), (hereinafter referred to as the old Act) by a notification of the Government.

The District Judge of Alwar reported that as under the new Act of 1956, the jurisdiction in respect of the Companies was conferred only upon the High Court, that Court may be pleased to deal with the case. The learned Judge before whom the reference came has referred the following question to the Division Bench:--

'whether by virtue of Section 647 of the present Companies Act, the District Judges have got jurisdiction in winding up matters of a Company with paid up capital of not less than Rs. 1,00,000/-where the winding up has commenced before the present Act came into force.'

Learned counsel for the Company has referred to a recent decision of the Full Bench of the Punjab High Court in *National Planners, Ltd. v. Contributors etc.* AIR 1958 Punj. 230. The learned Judges of the Punjab High Court held that the District Judge in whose court the winding up proceedings were pending before the Act of 1956 came into force had jurisdiction to retain the proceedings in his court and to pass judgment thereon in accordance with the provisions of the old Act, and that it was not necessary under the provisions of the Act of 1956 to transfer the said proceedings to the High Court.

The learned Judge relied on a previous decision of the Lahore High Court in *Daulat Rai v. Wazir Chand*, AIR 1914 Lah. 511 which was given with reference to Section 284 of the old Act. The same view has been taken in *Anantha Subramania Ayyar v. Official Receiver, Sitaram Spinning and Weaving Mills Ltd.*, (S) AIR 1957 Trav-Co 51. With respect, we agree with the view given in the Punjab case of AIR 1958 Punj. 230 and our answer to the question referred to is that the District Judge had jurisdiction to continue the proceedings which were started in his court before the Act of 1956 came into force.

3. The case will go back to the learned Single Judge with the aforesaid answer.