

b:

T.C.(C)No. 2 OF 2004

ITEM No.1

Court No. 1

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. Nos. 9, 20 & 28 in Transfer Case(Civil) No.2/2004

THE SECURITIES & EXCHANGE BD. OF INDIA ETC.

Petitioner (s)

VERSUS

THE GOLDER FORESTS (I) LTD. ETC.

Respondent (s)

(for interim stay and directions)

with

I.A. No. 1 in TC(C) No. 68/2003 (National Investors Forum vs. Golden Forests (I) Ltd.) (for directions)

W.P.(C) No. 188/2004 (M/s. Raiganj Consumer Forum vs. Union of India & Ors.) (with appln.(s) for directions and office report)

Date : 27/07/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE G.P. MATHUR
HON'BLE MR. JUSTICE C.K. THAKKER

For appearing parties:

Mr. Bhargava V. Desai,Adv.

Mr. Sanjeev Kr. Singh,Adv.

Mr. Pradeep Kr. Malik, Adv.

(for SEBI)

Ms. Naresh Bakshi,Adv.

(for Golden Forests (I) Ltd.)

Ms. Suruchii Aggarwal,Adv.

(for Provisional Liquidator)

Mr.Sunil Gupta, Sr. Adv.

Mr. Alok Gupta, Adv.

(for Drive In Tourist Resorts Pvt. Ltd.)

Mr. S B Sanyal, Sr. Adv.

Mr. Ranjan Mukherjee,Adv.

(for Raiganj Consumers' Forum)

Mr. Ranjan Mukherjee, Adv.

(for Tapas Kumar Khan & Anr. etc.)

Mr. N R Choudhury, Adv.

Mr. Somnath Mukherjee,Adv.

Mr. Naresh Chahar, Adv.

(for the Investors and Marketing Members'

Welfare Society)

Ms. Kiran Suri,Adv.

Ms. Minakshi Vij.,Adv.

Mr. Neeraj Kumar Jain, Adv.

Mr. Aditya Kumar Chaudhary, Adv.

Mr. Bharat Singh, Adv.

Mr. Sanjay Singh, Adv.

Mr. Ugra Shankar Pd., Adv.

Mr. Vishal Arun, Adv.

Mr. Abhijit Sengupta, Adv.

Mr. K.C. Dua, Adv.

Mr. Neeraj Chaudhary, Adv.

Mr. B Umakant, Adv.

Mr. Subramonium Prasad., Adv.

Mr. Pijush K Roy, Adv.

Mr. G Ramakrishna Prasad, Adv.

(for Golden Forests (India) Ltd. Investors
and Marketing Members Welfare Societies)

Mr. Khwairakpam Nobin Singh, Adv.

Mr. V Niren, Adv.

Mr. Raja Bahadur Singh Jain, Adv.

Mr. M.C. Dhingra, Adv.

M/s I.M. Nanavati Associates, Adv. (NP)

Mr. Janaranjan Das, Adv.

Mr. Swetaketu Mishra, Adv.

Ms. Moushumi Gahlot, Adv.

Mr. Tara Chandra Sharma, Adv.

Ms. Neelam Sharma, Adv.

(for State of West Bengal)

UPON hearing counsel the Court made the following

O R D E R

The property of Golden Forest (I) Ltd. (for short 'GFIL') is spread throughout the country. The High Court of Punjab & Haryana has appointed former Chief Justice Shri R.N. Aggarwal as Provisional Liquidator, while the High Court of Bombay has appointed Justice (Retd.) M.L. Pendse as Receiver. Different petitions/suits/matters, pending in different courts, have all been directed to be transferred to this Court so as to avoid the possibility of conflicting orders and parallel proceedings. Chief Justice (Retd.) R.N. Aggarwal has submitted Status Report summarising the proceedings held by him and the stage at which the matters before him stand. We request Justice (Retd.) M.L. Pendse, the Receiver appointed by the High Court of Bombay, to send a Status Report so as to apprise this Court of the proceedings held by him so far and as to the stage at which the matters pending before him stand.

All the learned counsel for the parties appearing before us are agreeable that there should be a Central Committee to be nominated by this Court which should be entrusted with the responsibility of realising the assets, distributing the receipts amongst the claimants after identifying their claims and investigating into siphoning off of the funds by GFIL.

In this regard, we allow two weeks' opportunity to Reserve Bank of India (RBI), Securities & Exchange Board of India (SEBI) and the different Investors' Forums appearing before us to make their suggestions.

Put up after two weeks on a Tuesday.

All the pending applications be listed for hearing on the next date.

I.A. No. 1/2004 in TC No. 68/2003 : Chief Justice (Retd.) R.N. Aggarwal, Provisional Liquidator has on 20th May, 2004 issued a sale notice inviting tenders for the purpose of sale of 15 items of properties listed in the sale notice. The last date for submitting the tenders is 31st July, 2004. Let the process of receiving all the tenders continue. However, the sale may not be finalised until further orders by this Court.

I.A. No. 9/2004 in TC No. 2/2004 : This is an application by a Forum of Investors. Vide order dated 8.5.2002 passed in WP No. 4799(W)/2002, the Calcutta High Court had directed GFIL not to withdraw the amount lying in the accounts as mentioned in the prayer portion of the petition before it except by the leave of the Court. It is complained that in spite of the interim order passed by the Calcutta High Court, the GFIL and its Directors are continuing to operate the accounts and withdrawing moneys therefrom.

We direct that none of the accounts of GFIL, its subsidiaries and associate companies (a list whereof has been filed as Annexure-I with IA No. 1/2004 in TC 68/2003) in any of the banks in the country shall be operated for withdrawal of any money from the accounts, by GFIL, its subsidiaries and associate companies either by themselves or through their officers or agents unless otherwise permitted by this Court. Let a copy of this order be communicated to the Reserve Bank of India annexing therewith a copy of the list.

A circular in this regard shall be issued by the Reserve Bank of India informing all the banks in the country.

I.A. No. 28/2004 in TC No. 2/2004 (by M/s. Drive In Tourist Resorts Pvt. Ltd.) : The applicant claims to be a lessee from M/s. Golden Tourist Resorts & Developers Ltd. whose electricity connection has been directed to be disconnected by the Provisional Liquidator on account of its default in making payment to the Provisional Liquidator as directed by him vide order dated 26.7.2003. The learned counsel for the applicant undertakes on behalf of the applicant to make payment of rent calculated @ Rs. 1 lac per month for the period 1st August, 2003 up to date to the Provisional Liquidator within a period of two weeks from today.

On such payment being made, the Provisional Liquidator shall send a communication to the Punjab State Electricity Board (P.S.E.B.) permitting electricity supply to the Resorts being restored, subject to payment of restoration charges and arrears, if any, directly to P.S.E.B. The applicant shall continue to make payment of rent to the Provisional Liquidator month by month by the 15th day of each month without default.

This is only an interim arrangement and does not dispose of the controversy raised by IA No. 28/2004 which shall remain pending for consideration and further orders.

(D.P. WALIA)

COURT MASTER

(RADHA R. BHATIA)

COURT MASTER