

COURT OF DISTRICT JUDGE, BHOPAL

(Presided by Sh. M.W. Deo)

GAS CLAIM CASE NO. 30 OF 1985

Mubarak Ali, aged 35 years,
S/o Ishaque Ali, R/o Jai Prakash
Nagar, Bhopal.

(Plaintiff)

Versus

UNION CARBIDE OF INDIA LTD.

(Defendant)

ORDER

By this application dated January 22, 1987, the defendant, Union Carbide India Ltd. prays for permission of the Court for removal of a unit called. Pennuwallt Super-D-Canter from the Bhopal plant to Bombay for temporary use in its other unit at Chembur, Bombay.

2. The factual context is that Mubarak Ali has filed a suit for compensation out of the gas leak tragedy of December 2-3, 1984, alleging negligence on the part of the UCIL.

3. Subsequently Union of India joined the suit as co-plaintiff under the Claims Act, 1985.

4. An application for attachment before judgment was made and during its hearing UCIL gave a written undertaking dt. 22.1.1985, that it will not remove any machinery situate in the factory premises without the order of the Court or till the disposal of the suit.

5. UCIL now says that it is not the desire to affect the purpose under Order 38, R.5, C.P.C. in any manner that permission is sought to remove D-canter unit.

6. However, the objection from Mubarak Ali and Union of India is that in as much as this unit is for effluent treatment and in as much as the entire question of negligence is pending decision by evidence, nothing should be allowed to disturb the status-quo in the matter of situation of various machine units in the plant which may ultimately have to be considered while evaluating the integrated process of manufacture of the end of product the pesticide.

7. The effect of removal of the effluent treatment equipment D-Canter unit may affect evidence to be led at the trial. It would, therefore, not be either just or proper even *de-hors* Order 38, Rule 5, C.P.C. to allow the petition. Hence the petition is disallowed.

Sd/-
(M.W. Deo)
District Judge,
Bhopal

Dated : 8.4.1987