

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: Hon. Sherry Klein Heitler  
Administrative Order

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MIDCONTINENT EXPRESS PIPELINE LLC and  
PRIME PIPE INTERNATIONAL, INC.,

Petitioners,

- v -

INDEX NO. 652805/2012

STATE BANK OF INDIA,

Respondent.

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**Administrative Order:**

By letter dated August 20, 2012, counsel for both sides jointly request that this special proceeding brought pursuant to CPLR 5225 (b) be transferred into the Commercial Division.

Petitioners are judgment creditors of non-party defendant Man Industries (India) Ltd. (Man) pursuant to an August 2011 Texas court judgment, which was registered in this court on March 22, 2012 under Index No. 102258/12 (the action). On July 18, 2002, the judgment creditors filed a motion in the action to compel the State Bank of India (SBI) to compel SBI to fully and completely respond to a post-judgment enforcement subpoena. The motion was served on counsel for SBI on July 18, 2012 together with a Request For Judicial Intervention (RJI). Judge Doris Ling-Cohan (IAS Part 36) was assigned to the case on the same date. On August 8, 2012, SBI requested permission to transfer the action to the Commercial Division, a request that was not opposed by counsel for the judgment creditors. That request was denied, by administrative order dated August 10, 2012 as past the strict 10-day time limit of Uniform Rule 202.70 (e).

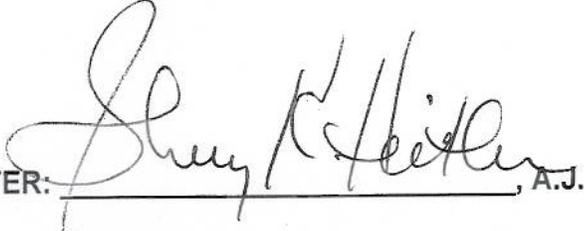
On August 10th, the judgment creditors filed this special proceeding against SBI seeking the turnover of certain funds allegedly held by SBI overseas in India. The RJI did not mark the case as a commercial matter, although the Commercial Addendum was attached, and the action was identified as a related matter. Thus, this proceeding was assigned to, and is pending before, the Hon. Doris Ling-Cohan.

This special proceeding may well raise issues which are of great concern to the New York banking community, however, this is a proceeding to enforce a judgment, and thus squarely falls outside the guidelines for assignment to the Commercial Division

(see Uniform Rule 202.70 [c] [4]). If the action and the instant special proceeding had been marked as commercial in nature pursuant to Uniform Rule 202.70 (b) (6), and assigned to the Commercial Division in the first instance, there is no doubt that the individual justices of the Commercial Division have the discretion to keep such matters on their docket. However, as counsel's letter application makes clear, this special proceeding is clearly and closely related to the action, which is pending in a non-commercial part, and thus transfer of either matter to the Commercial Division is not warranted for reasons of judicial economy.

For these reasons, the parties' request for assignment of this turnover proceeding to the Commercial Division is denied.

Dated: August 21, 2012

ENTER: , A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION