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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2574 OF 2013

Shri Shirish Chandrakant Dhuru & Anr.	..Petitioners
Vs.	
The Liquidator & Ors.	..Respondents.

ALONG WITH

WRIT PETITION NO.2637 OF 2013

Mr. Jagannath Dattaram Shirodkar & Ors.	..Petitioners
Vs.	
The Body of the Liquidator & Ors.	..Respondents.

**WITH
CHAMBER SUMMONS L. NO.68 OF 2014
IN
WRIT PETITION NO.2637 OF 2013**

In WP 2574/2013

Mr. Kishor Patil for Petitioners.
Mr. Ajay David for Respondent No.1.
Mr. Kinshuk Kislaya for Respondent No.2.
Mr. Milind More, AGP for Respondent Nos.3 & 4.

In WP 2637/2013

Mr. R.V. Paranjpe i/b Kamlesh Hadkar for Petitioners.
Mr. Ajay David for Respondent No.1.
Mr. Kinshuk Kislaya for Respondent No.2.
Ms. Uma Palsuledesai, AGP for Respondent Nos.3 & 4.

**CORAM: B.R. GAVAI &
A.S. GADKARI, JJ.**

DATE : 29th April 2015.

P.C.:

- 1** Rule is made returnable forthwith by consent of the parties.
- 2** The Petitioners have approached this Court seeking direction to Respondent No.1 forthwith refund the amount to the Petitioners with interest as per Schedule annexed to the petition. The Petitioners are the investors who have invested their funds with the Respondent No.1-Bank. However, the said bank has gone into liquidation and as such the Petitioners have approached this Court for the aforesaid directions.
- 3** Insofar as the fixed deposit receipt amounts which are upto Rs.1 lakh is concerned, it is not disputed that the said amount is already paid to such investors by the Respondent No.2. Now issue remains is with regard to balance amount to be paid to the investors. However, it is also claimed by the Respondent No.2 that the Respondent No.1 is first require to repay the amount which have already been paid to the investors.

4 The learned Counsel appearing for the Respondent No.1-Bank submits that as of now the Respondent No.1-bank is having fourteen-crores of cash. It is further submitted that the fixed assets which are available with the Respondent No.1-bank is much more than the total dues of the investors and the Respondent no.2 are taken together. He, therefore, submits that it would be in the interest of the parties that the Respondent no.1 is permitted to disburse the claims of the investors and the Respondent no.2 on pro rata basis.

5 The learned Counsel appearing for the Petitioners points out the Order of the Division Bench of the Gujarat High Court in Special Civil Application no.4260 of 2009. In the said case the Respondent no.2 herein had approached the Gujarat High Court contending therein that it will have priority over the claim. However, the said contention was rejected by the Gujarat High Court. However, it is contended by the learned Counsel appearing for the Respondent no.2 that the said judgment has been challenged before the Apex Court and the same is pending before the Apex Court for final adjudication. He, therefore, submits that in view of the provisions of the Depositors Insurance Credit Guarantee Corporation of

India (DICGC) Act, first satisfy the claim of the Respondent no.2 before satisfying the claim of the creditors.

6 The learned Counsel appearing for the Respondent no.1 has placed on record the statement which would show the worth of assets of the Respondent no.1-bank. The said statement is taken on record and marked “X” for identification.

7 Perusal of the said chart, it shows that the Respondent no.1 has sufficient funds so as to satisfy the claim of the Respondent nos.2 as well as secured creditors including Petitioners. In that view of the matter, we allow the petitions with a direction to the Respondent no.1-bank to satisfy the claim of the secured creditors including Petitioners on one hand and the Respondent no.2 on the other hand on pro rata basis. The said direction would be applicable insofar as the cash that is available with the Respondent no.1 so also the amount that would be available with the Respondent no.1 after disposal of the assets including immovable property.

8 It is informed that the proposal for disposal of the property is pending before the Commissioner of Co-operation, Pune. We direct that the Respondent No.1 shall take immediate steps for realizing the amount by disposal of the assets and would make an attempt to satisfy the claim of all the claimants within a period of six months from today.

9 Both petitions are disposed of.

(A.S. GADKARI, J.)

(B.R. GAVAI, J.)