



Appln.No.176 of 2016 in I.P.No.25 of 2014

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Dr.G.JAYACHANDRAN,J.

&

C.V.KARTHIKEYAN,J.

This application for direction to the second respondent to pay a sum of Rs.5 crores with interest at the rate of 18% p.a., from 21.04.2014 till the date of realization, is taken up for consideration. On considering the evidence on behalf of the applicant/official assignee, this Court finds that the second respondent pursuant to the filing of this application has deposited Rs.5 crores and the same has been invested in the bank and kept under escrow account which is earning interest.

2. The learned counsel appearing for the second respondent submitted that since the principal claim amount has already been deposited and the same is earning interest, the claim of 18% interest is to be rejected.

3. The claim made by the insolvent is based on the bank entries. There is no specific agreement by the borrower that he will pay back the money with the interest at the rate of 18% p.a. Therefore, the transaction cannot be presumed to be commercial transaction to claim interest much less 18%.



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4. This Court is of the view that the claim of 18% interest is therefore not sustainable. At the same time, the money advanced by the insolvent is getting interest through the bank from the deposit made by the second respondent.

5. In such circumstances, this application is disposed of with a direction that the amount deposited in the escrow account along with the accrued interest shall be withdrawn and paid in the account of the insolvent for disbursement to the creditors in future. In the light of the above order, the liability of the second respondent is hereby discharged.

6. Accordingly, the Application No.176 of 2016 in I.P.No.25 of 2014 is partly allowed. No order as to costs.

[Dr.G.J.J.] [C.V.K.J.]
16.08.2023

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