

IN THE HIGH COURT OF BOMBAY AT GOA**Writ Petition No.724 of 2016**

1. Francis Xavier Mendes,
66 years of age,
son of late Anthony Mendes,
residing at flat no.1, 1st floor,
Garden Centre Phase II,
Mapusa-Goa.

2. Mrs. Teresa L. Mendes,
67 years of age,
w/o Francis X. Mendes,
residing at flat no.1, 1st floor,
Garden Centre, Phase II,
Mapusa-Goa.

Petition no.1 represented by his
constituted Attorney the Petitioner no.2.
Constituted vide POA dated 22/2/2014
executed before Notary
Nelson Soares, Ponda.

..... Petitioners

V e r s u s

VHF Selve Housing Pvt. Ltd.,
A private Limited Company incorporated
under the provisions of Companies Act, 1956 with
Registered office at 9, Vivekanandha Street,
Ambal Nagar, Chennai 600 097.
through its authorized Director,
Mr. Bharat Jaganathan with the
above address.

..... Respondent.

(Above are the registered addresses of the
parties).

DATE:- 17TH APRIL, 2017.
CORAM: M. S. SONAK, J.

ORAL JUDGMENT:

Heard Mr. Bhobe, the learned counsel for the petitioner and Mr. Shivan Desai, the learned counsel for the respondents.

2. Rule. With the consent and at the request of the learned counsel rule is made returnable forthwith.

3. Upon hearing the learned counsel for the parties and on perusal of the material on record, there is no case made out to interfere with the impugned order to the extent it declines the detention of the respondent, Mr. Bharat Jaganathan. However, Mr. Bhobe submits that the entire execution proceedings have been ordered to be closed by the impugned order. He submits that the petitioner is certainly entitled to further opportunity to proceed with the execution by way of an inquiry into the assets of the judgment debtor and its directors, if any.

4. Although, there is no case made out to interfere with the impugned order to the extent it declines the detention of Mr. Bharat Jaganathan, there is no reason for closure of the execution proceedings in

their entirety. In fact such execution has to be proceeded in accordance with law. All the issues as to whether Mr. Bharat Jaganathan was a Director at the relevant time and further whether said Bharat Jaganathan is liable for satisfaction of the decree against the company can be gone into by the learned Executing Court. To that extent therefore it is clarified that the execution proceedings cannot be said to be closed by the impugned order. It is clarified that this Court has not expressed any opinion on the rival contentions save and except approving the impugned order to the extent it declines the detention of the Mr. Bharat Jaganathan. Accordingly, all the contentions of the parties are left open to be determined by the Executing Court. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

M. S. SONAK, J.

ap/-