

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 4 OF 2018

IN

COMPANY APPLICATION NO. 183 OF 2001

VIVEK C.PEDNEKAR.,

... Applicant

Versus

BHARATIYA DEVELOPMENT FINANCE LTD.
(IN LIQUIDATION) REP. BY OFFICIAL
LIQUIDATOR AND ANR.,

... Respondents

Adv. Prashil Arolkar for the Applicant.
Adv. Ms. Amira Razaq for the Official Liquidator.

Coram:- C. V. BHADANG, J.

Date:- 16th October 2018

P.C. :

This is an application for recall/modification of the order/decreed dated 7/11/2003 passed by this Court in Company application No.183/2001, whereby the applicant was directed to pay a sum of Rs.34,437/- along with interest at the rate of 21.5% p.a. and cost of Rs.5000/-.

2. According to the applicant, he had obtained a loan of Rs.25,000/- from M/s. Bharatiya Development Finance Ltd. (the company under liquidation) in the year 1997 for which the respondent no.2 had stood as a guarantor. It is contended that before the applicant could repay the loan amount the office of

M/s. Bharatiya Development Finance Ltd. was closed down somewhere in the year 1998. As a result the applicant could not repay the said amount. The applicant was not approached by any person nor was there any demand notice received by the applicant. In the year 2012 the applicant received a notice of Execution Application no.20/2012 from the Court of Civil Judge at Sawantwadi for recovery of the amount. It is submitted that the rate of interest awarded at 21.5% is also on a higher side. It is submitted that looking to the financial condition of the applicant, he is unable to pay the entire amount as awarded.

3. According to the applicant, he has deposited an amount of Rs.15,000/- (Rupees fifteen thousand only) in the Execution Application no.20/2012 before the learned Civil Judge, Junior Division at Sawantwadi, Maharashtra. The applicant has also paid a further sum of Rs.19,437 which is paid in the office of the Official Liquidator on 9/7/2018.

3. It is a matter of record that the applicant has deposited an amount of Rs.15,000/- (Rupees Fifteen thousand only) initially in the aforesaid Execution case before the Executing Court at Sawantwadi, Maharashtra, in addition to an amount of Rs.19,437/- (Rupees Nineteen thousand four hundred thirty seven only) before the office of the Official Liquidator on 27/9/2018. The applicant has also deposited a sum of Rs.15000/-

in the office of the Official Liquidator on 27/9/2018. Thus the applicant has deposited a total amount of Rs.49,437/- (Rupees forty nine thousand four hundred thirty seven only).

4. On hearing the learned counsel for the applicant and the learned counsel appearing for the Official Liquidator it appears that the applicant has made a total payment of Rs.49,437/-, against the said decree. Considering the overall circumstances and for the reasons mentioned in the application, the same is allowed. The applicant is permitted to deposit Rs.49,437/- in full and final settlement of the decree dated 7/11/2003, which shall be treated as fully satisfied.

C. V. BHADANG, J.

ap/-