

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 16 OF 2018

IN

COMPANY APPLICATION NO. 168 OF 2001

SAPAISAL U. SHAIKH.,

... Applicant

Versus

BHARATIYA DEVELOPMENT FINANCE LTD.
(IN LIQUIDATION), REP. BY OFFICIAL
LIQUIDATOR AND 2 ORS.,

... 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 permitting the applicant to deposit an amount of Rs.15,850/- in full and final settlement of the decree dated 7/9/2011 passed in Company Application no.168/2001. By the said decree the applicant was directed to pay a sum of Rs.27,850/- along with further interest at the rate of 21.5% per annum.

2. According to the applicant, he had obtained a loan from M/s. Bharatiya Development Finance Ltd., (the company under liquidation) in the year 1997. The respondent nos. 2 and 3 were the sureties for the said loan.

3. According to the applicant before he could repay the loan the office of the company closed down somewhere in the year 1998 and as a result the applicant could not repay the said loan. 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 the Execution application no.18/2011 from the Court of the Civil Judge Junior Division 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.

4. The learned counsel for the applicant has pointed out an order dated 6/5/2016 passed in Company application no.34 of 2016 in Company Application No.29/2016 (Shri Vilas M. Pawaskar Vs. M/s Bharatiya Development Finance), where-under this Court had modified the decree on the condition of the payment of the amount as mentioned in the said order.

5. The applicant has deposited an amount of Rs.12,000/- (Rupees Twelve thousand only) before the Executing Court i.e. the Court of Civil Judge, Junior Division at Sawantwadi in Execution Application no.18/2011. In addition thereof, the applicant has deposited an amount of Rs.30,000/- (Rupees thirty

thousand only) with the Official Liquidator on 28/9/2018.

6. 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.42,000/-, 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.42,000/- in full and final settlement of the decree dated 7/9/2011, which shall be treated as fully satisfied.

C. V. BHADANG, J.

ap/-