

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 1 OF 2018

IN

COMPANY PETITION NO. 7 OF 1998

BHARTIYA DEVELOPMENT FINANCE
PRIVATE LIMITED (IN LIQ.)THR.
OFFICIAL LIQUIDATOR.,

... Applicant

Versus

-

... Respondent

Adv. Amira Abdul Razaq for the Applicant.

Coram:- C. V. BHADANG, J.

Date:- 25th January 2018

P.C.:

Leave to correct prayer clause (a) granted. Necessary correction to be carried out forthwith.

2. Heard Ms. Razaq, the learned counsel appearing for the Official Liquidator. Perused record.

3. By an order dated 13/10/2017, this Court had directed winding up of company M/s Bharatiya Development Finance Ltd. and the Official Liquidator attached to this Court was appointed as the Liquidator in company liquidation. On verification of the settlement of affairs and perusal of the register

of the companies and with leave of this Court the Official Liquidator filed more than 300 claim applications for recovery of the amounts due to the company.

4. It appears that the execution applications were filed for execution of the decrees, which were subsequently transferred to the Subordinate Courts situated in Goa as well as in Sindhurg District of Maharashtra.

5. It is contended by Ms. Razaq, the learned counsel for the Official Liquidator that, on instructions from the Dy. Official Liquidator who is present before the Court that only an amount of Rs.28,14,233/- as on 16/11/2017 has been recovered. There are 92 cases where the decretal amount is equal to or less than Rs.20,000/-. Out of these 92 cases, the notices could not be served in 57 cases. In 32 cases although notices could be served, the particulars of the assets of the Judgment Debtors are not available and have not been provided by the ex Directors of the company inspite of several efforts and communications. In three out of 92 cases, notices are yet to be issued and 12 cases have been dismissed for want of steps for service of the judgment debtors. In such circumstances, the applicant has prayed for leave to allow the Official Liquidator to close the 92 cases where the decretal amount is equal to or less than Rs.20,000/-. It is submitted that during the period from June 2016 to November

2017 against recovery of Rs.5,91,287/- the expenses incurred by the Official Liquidator are Rs.2,49,720/-. It is submitted that the said amount would be deducted from common pool fund which would ultimately affect the interest of the creditors.

6. On hearing the learned counsel for the Official Liquidator I find it appropriate to permit the Official Liquidator at this stage to close 89 execution cases (out of the total 92 cases) where the decretal amount is equal or less than Rs.20,000/- i.e. except the 3 cases where notices are yet to be issued.

7. The Official Liquidator is also permitted to recover the total decretal amount along with interest from the ex Directors of the Company in the liquidation. The application thus stands granted in terms of prayer clauses (a), (b) and (c), excluding the 3 cases where the notices are yet to be issued.

8. Liberty to apply in respect of the rest of the cases, if necessary, on case to case basis. Liberty also to apply for revival of the execution cases in the event the addresses and details as to assets of the judgment debtors are found.

C. V. BHADANG, J.

ap/-