

Santosh

***IN THE HIGH COURT OF BOMBAY AT GOA
COMPANY APPLICATION NO.21 OF 2019
IN
COMPANY APPLICATION NO.179 OF 2001***

Lata A. Sirsat. Applicant.

And

Bhartiya Development Finance Ltd.
(in liquidation). Respondent.

Mr. Prashil Arolkar, Advocate for the Applicant.

Ms. Amira Abdul Razaq, Advocate for the Respondent.

Coram : M.S. Sonak, J.

Date : 13th September, 2019.

P.C.:

Heard Mr. P. Arolkar for the Applicant and Ms. Razaq for the Official Liquidator.

2. By this application, the Applicant seeks modification of the order/decreed dated 27/08/2004 in Company Application No.179/2001, by which the Applicant was directed to pay a sum of ₹49,209/-, along with interest at the rate of 8 % p.a. and costs of ₹ 500/-.

3. As on date, the amount payable by the Applicant to the Official Liquidator comes to ₹ 1,19,680/-. This is in terms of the

statement handed in by Ms. Razaq, learned Counsel for the Official Liquidator, which statement is not even disputed by Mr. Arolkar, learned Counsel for the Applicant.

4. Mr. Arolkar points out that in similar circumstances, this Court in Company Application No.16 of 2019, by its order dated 28th June, 2019 had modified the order/decreed by requiring the Applicant in the said case to pay approximately 50 % of the amount then found due. In the said case, the amount found due was ₹ 1,07,160/- and a direction was issued for acceptance of ₹ 60,000/-, by way of full and final settlement.

5. In the present case, the amount paid was ₹ 3000/- and the amount payable is ₹ 1,19,680. At this stage, therefore, it will be just, fit and proper if the Applicant is permitted to pay ₹ 60,000/-, by way of full and final satisfaction of the decree, subject to such amount being actually paid to the Official Liquidator within a period of four weeks from today. Mr. Arolkar states that such amount will be paid by the Applicant to the Official Liquidator within four weeks from today.

6. Accordingly, should the Applicant indeed pay the amount of ₹ 60,000/-, to the Official Liquidator within four weeks from today, then and only then, the decree/order dated 27/08/2004 to stand modified, proportionately. This means that if the amount of ₹

60,000/- is indeed paid to the Official Liquidator within four weeks from today, then and only then the decree dated 27/08/2004 shall stand fully satisfied. However, if for any reason, this amount is not paid within four weeks from today, then, this Application shall be deemed to have been dismissed, without any further reference to this Court and the Official Liquidator shall be at liberty to proceed with the execution of the decree as it stands.

7. If the amount of ₹ 60,000/- is indeed paid within four weeks from today to the Official Liquidator and proof of such payment is produced before the executing Court at Ponda, then, the executing Court to dispose of the execution proceedings on the basis that the decree stands fully satisfied.

8. With the aforesaid directions, this Application is disposed of.

9. All concerned to act on the basis of an authenticated copy of this order.

M.S. Sonak, J.