IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO.22 OF 2019
IN
COMPANY APPLICATION NO.107 OF 2001

Pratapnath B. Goswami ... Applicant

Versus

Official Liquidator ... Respondent

Mr. Prashil Arolkar, Advocate for the Applicant.

Ms. A. Razaq, Advocate for the Official Liquidator.

Coram:- M. S. SONAK, J.
Date:- 15th November, 2019

P.C.

By this application, the Applicant seeks modification of the order/decree dated 23rd June, 2006 by which the Applicant was directed to pay an amount of Rs.1,39,919/- alongwith interest at the rate of 20% per annum from 1st February, 2001 to 22nd June, 2006 and 6% per annum from 23rd June, 2006 to 6th April, 2017.

2. The record indicates that as of date the Applicant has paid an amount of Rs.90,000/- to the Respondent. In terms of the decree therefore, the interest component now payable comes to Rs.2,63,677/- and the original decretal amount (principal amount) comes to Rs.1,39,919/-. This

means that after giving balance credit, the Applicant has paid an amount of Rs.90,000/- and the total amount payable comes to Rs.3,13,596/- as on 15th November, 2019.

3. The Applicant has pointed out that this loan was in fact taken by his brother. Further, the Applicant is working as helper in a bakery and has also suffered from brain haemorrhage. On this basis, it is submitted that the decree may be modified.

4. Mr. Arolkar relies upon the order made by this Court in Company Application No.19 of 2019 in Company Application No.60 of 2001 on 13th September, 2019 where, this Court taking into consideration the facts and circumstances, had reduced the decretal amount by almost 50%. Mr. Arolkar submits that this is a fit case where the entire interest amount should be waived and the Applicant be permitted to pay only the balance of the principal amount after adjustment of the amount of Rs.90,000/- already paid in full and final satisfaction of the decree in question.

5. Ms. Razaq, learned counsel for the Respondent points out that the concession claimed by the Applicant is quite on the higher side. She points out that even in the previous matter, the decree was modified only to the extent of 50%.

6. Upon taking into consideration the material brought on record and the circumstance that the Applicant has already paid an amount of Rs.90,000/-, according to me, the decree can be modified. The modification can of course, this Court made subject to the Applicant actually paying the modified amount within some time bound schedule.

7. In the facts of the present case, the impugned decree can be modified by directing the Applicant to pay the total amount of Rs.2,00,000/-. From out of this amount, the Applicant shall be entitled to the credit towards the amount of Rs.90,000/- already paid by him. This means that the decree will stand fully satisfied if the Applicant pays a further amount of Rs.1,10,000/- to the Respondent within a period of three months from today.

8. Mr. Arolkar on the basis of the instructions from the Applicant who is present in the Court states that within a period of two months from today, the Applicant will pay an amount of Rs.50,000/- and the balance amount of Rs.60,000/- will be cleared by the end of three months from today. If there is compliance, then, the decree will stand fully satisfied. However, if there is no compliance then, this application shall be deemed to have been dismissed and the Respondent will be at liberty to proceed with the execution of the decree as it originally stands. The Official Liquidator to issue the receipt for the amount deposited in this office in furtherance of

this order.

9. This application is accordingly disposed of in the aforesaid terms.

M. S. SONAK, J.

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