

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 5 OF 2020

IN

COMPANY APPLICATION NO. 42 OF 2001

SUNIL P. PARAB.,

... Applicant

Versus

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

... Respondents

Mr. Prashil Arolkar, Advocate for the applicant.

Applicant present in Court.

Ms. Amira Razaq, Advocate for the Official Liquidator.

Coram:- M. S. SONAK, J.

Date:- 10th January, 2020

P.C.:

This is an application for modification of Decree dated 28/6/2002 made in Company Application No.42/2001 requiring the applicant to pay a sum of Rs.49,309/- along with future interest at the rate of 20% per annum.

2. In terms of the Decree, the total amount due and payable by the applicant comes to Rs.2,27,095/- as on 10.01.2020. Mr. Arolkar, on the basis of instructions from the applicant who is present in the Court states that the applicant is an Agriculturist

and on account of financial embarrassment, is unable to pay the amount in terms of Decree. Mr. Arolkar, again on instructions states that the applicant will arrange to pay the Official Liquidator a sum of Rs.1,00,000/- within a period of two months from today. Mr. Arolkar, again on instructions states that the applicant is also willing to file an undertaking in this Court within two weeks from today. Mr. Arolkar, refers to such orders in this Court in similar circumstances where decrees come to be modified.

3. That the original Decree was modified by further Order dated 10th March, 2006 in Company Application no.59-0 of 2004. However, for the purpose of this application the Decree dated 28/6/2002 as modified, is referred as the Decree dated 28/06/2002 itself.

4. Ms. Amira Razaq, submits that the dues payable by the applicant as on date are Rs.2,27,095/-. She points out that the applicant has made no payment towards the Decree in question.

5. Taking into consideration the circumstances pleaded by the applicant and the fact that the applicant is willing to give an undertaking to this Court for an amount of Rs.1,00,000/- which will be positively paid to the Official Liquidator within two months from today, some indulgence is due to the applicant. In

the similar circumstances, the Decrees in the other Company Applications have been modified by this Court.

6. Accordingly, subject to the applicant filing an undertaking within two weeks from today that he will pay to the Official Liquidator an amount of Rs.1,00,000/- within two months from today, the Decree to stand modified. In terms of the modification, if, the applicant indeed pays an amount of Rs.1,00,000/- to the Official Liquidator within two months from today, the same shall be treated as full and final satisfaction of the Decree dated 28/06/2002.

7. However, it is further made clear that in case the applicant fails to file any undertaking within two weeks from today or fails to pay an amount of Rs.1,00,000/- within two months from today, this application shall be deemed to have been dismissed without any reference to this Court. Further the applicant in such a situation will also be liable for the consequences which ensue from the breach of undertaking is now, is being accepted by this Court.

M. S. SONAK, J.