Comp.A.No.19 of 2021
in
C.P.No.279 of 2016

R.SUBRAMANIAN, J.

This application has been taken out by the learned Official Liquidator under Section 446 of the Companies Act seeking payment of a sum of Rs.40,59,000/- with interest at 18% p.a. from 18.10.2016 to till date of entire settlement.

2.The claim is based on a registered mortgage deed executed by the respondents 1 to 3 in favour of the Company in liquidation on 09.07.2014. The claim by the Official Liquidator is based on the statement of affairs filed by the Company.

3.Mr.A.Iyemperumal, learned counsel appearing for the respondents 1 to 3 would submit that the mortgage deed was executed not for a borrowing but for the dues under the chit transaction, which was far less than the value of the mortgage deed. Hearing an application under Section 446, I do not think I can go into those issues when the transaction is evidenced by a registered instrument. The document provides for 24% compound interest but it is silent as to the rests to be adopted for the purposes of compounding.

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4.Considering the nature of the debt and the fact that the lands that are mortgaged are agricultural lands, I am of the opinion that the claim for compound interest is unreasonable. The document also is incomplete with regard to the rests for the compound interest, I am therefore, of the view that the respondents could be directed to pay the debt with simple interest.

5.As regards the rate of interest, the Bank interest as of today is went around 6 to 7 percent. Taking into consideration the welfare of the creditors of the Company also, I am of the considered opinion that the respondents could be directed to pay a sum of Rs.10,00,000/- with 12% simple interest from 09.07.2014 till date of payment. They are also granted four months time to pay the entire amount either in one go or in instalments. On such payment, the Official Liquidator will execute proper discharge of the mortgage. It is made clear that this order shall not be treated as a precedent.

29.10.2021

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