Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 61 OF 2023
IN
COMPANY APPLICATION NO. 266 OF 2001

Lata Mandrekar,
Widow of late Prabhakar Mandrekar,
Age 65 years, Resident of H. No. 116,
Near Govind Gunaji High School,
Khalcha Wada, Sarvana, Bicholim, Goa. ... Applicant

In the matter of

Official Liquidator,
High Court of Bombay at Goa,
Porvorim, Goa ….Applicant

Versus

1. Lata Mandrekar,
Widow of late Prabhakar Mandrekar,
Age 65 years, Resident of H. No. 116,
Near Govind Gunaji High School,
Khalcha Wada, Sarvana, Bicholim, Goa

2. Prabhakar Mandrekar,
H. No. 116, Near Govind Gunaji High School,
Khalcha Wada, Sarvana, Bicholim, Goa

3. Rohidas Naik,
Akshi, Ansa Bhat, Ilhas, Goa. ...Respondents.

Mr. Nigel John Fernandes, Advocate for the Applicant.

Ms. Amira Razaq, Advocate for the Respondent.

CORAM:- BHARAT P. DESHPANDE, J.
DATED :- 07th December, 2023

ORAL ORDER

1. Heard Mr. Nigel John Fernandes appearing for the Applicant and Ms. Amira Razaq appearing for the Respondent.

2. This is an application for modification of the order and decree dated 27.06.2003 passed in Company Application No. 266-0/2001. By the said Order/Decree, the claim of Official Liquidator for an amount of Rs.34,858/- along with interest @ 16% per annum and cost of Rs. 3,000/- against the Applicant was granted.

3. Mr. Fernandes appearing for the Applicant submits that the Principal Borrower of the loan was the husband of the Applicant who expired in the year 2008. The Applicant had no means to pay/satisfy the Decree. Even the son of the Applicant by name Kashinath expired in the year 2016. The Applicant somehow managed to pay the principle sum, however, she being a senior citizen and without any source of income is unable to pay the balance amount which is mostly calculated on the basis of interest at the rate of 16% per annum.

4. Mr. Fernandes would submit that till date Applicant has cleared the principal amount and she is ready and willing to deposit an amount of Rs. 40,000/- towards full and final settlement of the entire loan together with interest and cost. He submits that the Applicant needs 8 months time to pay the amount of Rs. 40,000/-.

5. Mr. Fernandes submits that the Order/Decree be suitably modified so as to close the said account.

6. Ms. Razaq appearing for the Respondents submits that though the Applicant is asking for modification, admittedly, she paid the principal amount, however the interest is mounting and the same has not been paid. She submits that concession claimed by the Applicant is quiet on the higher side.

7. The contentions raised in the present application are supported by an affidavit. The loan was obtained by the husband of the Applicant who expired in the year 2008. Applicant is not having any means to pay the balance amount and mostly the interest, though she has paid the principal amount.

8. The Applicant is ready and willing to pay an amount of Rs. 40,000/- by way of full and final settlement within a period of 8 months. Considering financial condition of the Applicant and in order to give her an opportunity which she has shown it willingly, the Order/Decree could be modified by directing the Official Liquidator to accept an amount of Rs. 40,000/- within a period of 8 months from today towards full and final settlement of the decree. Till that time the execution pending before the Trial Court shall be kept in abeyance. With the above observations, the application stands disposed of and the Decree is modified accordingly. Parties shall act on the authenticated copy of this order.

BHARAT P. DESHPANDE, J.