

(1983) 10 P&H CK 0017
In the Punjab And Haryana At Chandigarh
Case No : Company Petition No. 81 of 1981

Dainik Finance and Chit Fund Co. P. Ltd. (In Voluntary Liquidation)

APPELLANT

Vs

Agricultural Industries and Others

RESPONDENT

Date of Decision : 18-10-1983

Acts Referred:

Companies Act, 1956 — Section 458A
Limitation Act, 1963 — Article 1, 18

Citation : (1986) 60 CompCas 180

Hon'ble Judges : R.N. Mittal, J

Bench : Single Bench

Advocate : J.S. Narang and Arun Jain, for the Appellant; D.S. Nehra and Arun Nehra for respondent Nos. 1, 2, 5 and 9 to 12, for the Respondent

Final Decision : Partly Allowed

Judgement

Rajendra Nath Mittal, J.—Briefly, the facts are that the petitioner was a company incorporated under the Companies Act, 1956, and was doing business in chit fund since its incorporation. It went into creditor's voluntary winding-up from December 11, 1979. Respondent No. 1 is a partnership firm and respondents Nos. 2 and 3 and Shri Chanan Lal, deceased father of respondents Nos. 2 and 9 to 12, were its partners. Shri Chanan Lal was also the chairman of the loan committee of the petitioner. He died on December 23, 1980. The petitioner had extended the facility to respondent No. 1 to take loans from it. Consequently, it withdrew a total sum of Rs. 23,39,910 from the petitioner as loan. The loans carried interest at the rate of 12 per cent. to 18 per cent. per annum. An amount of Rs. 1,27,227.16 was debited to its account on account of interest till March 13, 1978. Respondent No. 1 paid an amount of Rs. 5,48,000 towards the principal. Further, a sum of Rs. 13,70,740 was adjusted against the loan account, being its contribution of the various lucky chits of lucky groups held by it. Thus, an amount of Rs. 5,48,397.16 remained due from respondent No. 1 to the petitioner on March 13, 1978, out of which a sum of Rs. 6,000 was paid by it on July 7,

1978, vide a cheque drawn on the Central Bank of India, Batala. The total interest from March 13, 1978, to December 11, 1979, on the said amount at the rate of 12 per cent, per annum comes to Rs. 1,14,144. Thus, the amount which is now due from respondent No. 1 on December 11, 1979, comes to Rs. 6,56,541.16 which has not been paid in spite of repeated requests. Respondents Nos. 4 to 8 stood sureties to the extent of Rs. 3,75,000, Rs. 4,00,000, Rs. 30,000, Rs. 90,000 and Rs. 30,000, respectively. Consequently, they are also liable to pay the amounts. It was, therefore, prayed that a decree for recovery of Rs. 6,56,541.16 together with future interest be passed in favour of the petitioner.

2. The petition was contested by respondents Nos. 1 to 5. Three written statements were filed--one on behalf of respondents Nos. 1, 2 and 5, second on behalf of respondent No. 3 and the third on behalf of respondent No. 4. It was pleaded by respondents Nos. 1, 2 and 5 that the loans were taken by the answering respondents as individual loans on the basis of pronotes and the same have been returned to the petitioner. It was denied that the respondents took current running loans from it. They also pleaded that the petition was not within limitation. They further raised an objection regarding interest and said that the petitioner was not entitled to any interest. Respondent No, 3 denied his liability to pay any amount to the petitioner. He also denied execution of the receipts, pronotes, etc. Respondent No, 4 in his written statement pleaded that he did not execute any surety bond in favour of the petitioner. The respondents took some other pleas as well. On the pleadings of the parties, the following issues were framed :--

1. Whether the petition is barred by limitation ? OPD
2. Whether the petitioner has obtained the sanction of the court for filing the petition ? OPP
3. Whether the respondents are liable to pay the amount claimed in the petition to the petitioner ? OPP
4. Whether the respondents are liable to pay interest on the amount due ? If so, at what rate ? OPP
5. Whether respondent No, 1 was reconstituted on April 1, 1976 ? If so, -its effect ? OPD
6. Whether the firm, respondent No. 1, accepted the liability of the old firm ? If so, its effect ? OPP
7. Whether respondent No. 3 retired from the firm, respondent No. 1 ? If so, on what date and its effect ? OPD
8. Whether respondents Nos. 4, 5, 6, 7 and 8 stood sureties to the extent of Rs. 3,75,000, Rs. 4,00,000, Rs. 30,000, Rs. 90,000 and Rs. 30,000, respectively ? OPP

9. Whether, after the change in the constitution of the firm, the liability of respondent No. 4 ceased to exist ? OPR4

10. Relief.

3. Mr. Nehra on behalf of respondents Nos. 1, 2 and 5 moved C.A. No. 92 of 1982 for framing of additional issues. On his application, the following two additional issues were framed, vide my order dated July 15, 1982 :--

9A. Whether Shri Ravinder Kumar has not been appointed as liquidator according to law ?

OPR 1, 2 and 5.

9B. -Whether all the relevant and material facts have not been given in the petition and consequently it is not maintainable ?

OPR 1, 2 and 5.

Issue No. 1:

4. The first question that arises for determination is whether the petition is barred by limitation. The learned counsel for the petitioner has urged that Chanan Lal, the deceased managing director of respondent No. 1, had been given the facility of raising loans for an indefinite limit. The account between the parties was a mutual, current and running account and the last transaction was on July 7, 1978. It is alleged that thus the limitation for filing the petition started running from July 7, 1978, and it was filed within three years thereafter, that is, on July 4, 1981. He urges that, therefore, under Article 1 of the Limitation Act, the suit is within limitation.

5. I have considered the argument of the learned counsel. Article 1 provides that a suit for the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties, can be filed within three years from the close of the year in which the last item admitted or proved is entered in the account. The question that has to be determined is whether the account was a mutual account or not. What is a mutual account has been examined by a Division Bench of the Lahore High Court in *Ram Dhan v. Malik Md. Dost Khan*, AIR 1931 Lah 241 wherein it was observed by Tek Chand J., speaking for the court, that a mutual account means not merely one where each of the parties has received money and paid it on account of the other, but where each of the parties has received and paid on the other's account. The learned judge further observed that it is the essence of mutuality that each party to the account must extend the credit to the other on the faith of an admitted indebtedness to him. Similar view was expressed by a Division Bench of the Calcutta High Court in *The Tea Financing Syndicate Ltd. Vs. Chandra Kamal Bez Barua*, . Rankin C.J., after noticing a large number of authorities, observed thus (at p. 368) :

" There can, I think, be no doubt that the requirement of reciprocal demands

involves, as all the Indian cases have decided following Holloway, Actg. C.J., transactions on each side creating independent obligations on the other and not merely transactions which create obligations on one side, those on the other being merely complete or partial discharges of such obligations. It is further clear that goods as well as money may be sent by way of payment. "

6. The above observations were followed by the Supreme Court in *The Hindustan Forest Company Vs. Lal Chand and Others*, wherein it was held by A. K. Sarkar J. that the observations of Rankin C.J. have never been dissented from in our courts and that they lay down the law correctly. From the above observations, it follows that mutual account involves an idea of reciprocity of demands. If dealings between the parties disclose independent obligations on both sides and not obligations on one side alone, that will constitute a mutual account. In other words, the account between the parties should be such which gives rise to mutual demands.

7. Now, I advert to the facts of the present case. Nothing has been brought on record to show that the petitioner has given sanction to respondent No. 1 to withdraw amounts to an infinite limit. Respondent No. 1 in his written statement has described all the loans taken by it as individual loans. It also appears to be true. Reference in this regard may be made to some of the exhibits. Exhibit P-170 is an application by which respondent No. 1 applied for grant of loan of Rs. 75,000. The loan was sanctioned by the loan committee on September 7, 1973. The amount was withdrawn by respondent No. 1 on September 8, 1973. After the sanctioning of the loan, pronote, exhibit P-171, was executed by respondent No. 1 on September 8, 1973. The amount thereafter was paid on the same date through cheque, exhibit P-44. Some other such applications which have been brought on the record are exhibits P-173, P-175 and P-185. All the applications were considered separately and the amount was sanctioned after due consideration. Regarding each loan, separate sureties were furnished by respondent No. 1 and interest at different rates was agreed to be paid by it. Todar Mal, P.W.-12, who was the chairman of the petitioner, admitted in his statement that if the loan committee agreed to give loans, then pronotes were got executed from the loanees. Sometimes, those persons used to make written applications as well. If any person used to make an application for loan, that was considered by the loan committee and thereafter the loan was granted to him. He also admitted that when loan was given to a loanee, either guarantee from another person or guarantee of his chit was taken. From the loan account produced by the petitioner, it is further evident that there was no mutuality between the parties. On the other hand, the loans were given by the petitioner to respondent No. 1 and whatever amount was paid back by the latter, it was towards the repayment of the loan. It was not even the case of the petitioner that it could take any amount from respondent No. 1. It is also relevant to point out that since the time respondent No. 1 started taking loans from the petitioner, some amount always remained outstanding against it and not vice versa. After taking into consideration all the above circumstances. I am of the opinion that

the account between the parties cannot be said to be a mutual account and the case is not governed by Article 1 of the Limitation Act.

8. Mr. Narang has next argued that even if the case is not governed by Article 1, the respondent acknowledged the amount by showing the same due in its balance-sheets relating to the accounting years 1970-71 to 1978-79, exhibits P-218 to P-226. He argues that each acknowledgment gave a fresh cause of action to the petitioner u/s 18 of the Limitation Act. In support of his contention, he makes a reference to *Vijaya Kumar Machinery and Electrical Stores Vs. Alaparthi Lakshmikanthamma*, . On the other hand, Mr. Nehra has strenuously urged that the returns were not duly proved and, therefore, they cannot be read into evidence. He has further urged that even if they are read into evidence, these do not amount to acknowledgments as the petitioner has not proved that they bear the signatures of any partner of respondent No. 1 nor has it shown that the acknowledgment of the liability was consciously made. According to him, mentioning of the amount in the balance-sheets without admitting the liability by a debtor does not amount to an acknowledgment.

9. I have considered the arguments. The first point to be decided is whether the documents can be read into evidence or not as, according to Mr. Nehra, these have not been formally proved. In order to prove the documents, the petitioner produced Mr. Devinder Lal, Income Tax Officer, P. W. 1. He deposed that he had brought the assessment orders of respondent No. 1 from the assessment year 1971-72 up to the assessment year 1979-80. Respondent No. 1 had filed copies of the balance-sheets. He had brought the original partnership deed dated April 1, 1976. A note was then given that the learned counsel for the petitioner wanted the production of photostat copies of the balance-sheets and the partnership deed. The witness stated that he would produce the photostat copies of the documents in the latter part of the day. Then it was ordered that the documents might be got exhibited by the petitioner's counsel in his statement. No objection was raised at that time by the counsel for the respondents. Later, the documents were produced and they were exhibited in the statement of Mr. Narang. Even then no objection was raised with regard to their exhibition. It is well-settled that if the documents are exhibited without any objection regarding the mode of proof, a party to the litigation cannot be allowed to raise it later. Reference in this regard may be made to AIR 1943 83 (Privy Council) *P.C. Purushothama Reddiar Vs. S. Perumal*, and *Amar Singh Vs. Tej Ram and Another*, . The following observations of their Lordships of the Privy Council in *Gopal Das*" case may be read with advantage (p. 87):

" Where the objection to be taken is not that the document is in itself inadmissible but that the mode of proof put forward is irregular or insufficient, it is essential that the objection should be taken at the trial before the document is marked as an exhibit and admitted to the record. A party cannot lie by until the case comes before a court of appeal and then complain for the first time of the mode of proof."

10. Same view was expressed by the Supreme Court in P.C. Purushothama Reddiar Vs. S. Perumal, The above two cases were followed in Amar Singh Vs. Tej Ram and Another, and it was observed by me that the objections regarding the mode of proof should be taken at the time when the document was exhibited. In case the document is exhibited without any objection, a party to the litigation cannot be allowed to raise the objection regarding it for the first time in appeal.

11. Mr. Nehra made a reference to the observations of the Supreme Court in Sait Tarajee Khimchand and Others Vs. Yelamarti Satyam alias Satteyya and Others, and a decision of this court in Mir Mohammad Raza Ali Khan v. State of Haryana (RFA No. 805 of 1973, decided by a learned single judge on April 11, 1980). It is true that in Sait Tarajee Khimchand and Others Vs. Yelamarti Satyam alias Satteyya and Others, the learned judges did not take into consideration the day book and the ledger on the ground that they were not referred to in the judgment and were not proved though exhibited, but later a larger Bench in P.C. Purushothama Reddiar Vs. S. Perumal, took a contrary view. In this situation, I prefer to follow the view expressed in the latter case. It appears that this view was not brought to the notice of the learned judge in Mir Mohammad Raza Ali Khan's case (RFA No. 805 of 1973), who followed Sait Tarajee Khimchand and Others Vs. Yelamarti Satyam alias Satteyya and Others, . It is well-settled that if there is a conflict in the judgments of the Supreme Court, the courts are bound to follow the view expressed by a larger Bench. Therefore, I am of the opinion that the said returns can be read into evidence and Mr. Nehra cannot raise any objection regarding them.

12. The second point to be decided is whether the entries made in exhibits P-218 to P-226 amount to acknowledgments. Section 18 provides that the acknowledgment should be made in writing signed by the party against whom a right is claimed. Mr. Narang has fairly admitted that some of the exhibits do not contain the signatures of any person while on the others the signatures have not been proved. He, however, made a reference to the statement of Raj Kumar, R. W. 1, who stated that the Income Tax returns were filed by them at Batala but he never appeared before the Income Tax Officer. From the statement, it cannot be inferred that the balance-sheets are signed by any of the partners. u/s 18, a writing amounts to an acknowledgment if it bears the signatures of the author. The statement of Raj Kumar, in my view, does not lead to a conclusion, that the balance-sheets bear the signatures of a partner of the firm. Therefore, the counsel cannot derive any benefit from it.

13. Now, it is to be seen that if the balance-sheets are assumed to bear the signatures of a partner of respondent No. 1, whether these amount to acknowledgments of the debt. It is well-settled that a document containing acknowledgment should be construed liberally and that where on its reasonable construction it is found that it contains an express or implied admission by the author of the document of his liability, it will constitute an acknowledgment of

liability within the meaning of Section 18 of the Limitation Act. In the above view, I am fortified by the observations of the Supreme Court in Khan Bahadur Shapoor Fredoom Mazda Vs. Durga Prosad Chamaria and Others, wherein it has been held that courts lean in favour of a liberal construction of statements containing acknowledgment. The words used in the acknowledgment must, however, indicate the existence of jural relationship between the parties such as that of debtor and creditor, and it must appear that the statement is made with the intention to admit such jural relationship. Such intention can be inferred by implication from the nature of the admission and need not be expressed in words. It has been further observed that if the statement is fairly clear, then the intention to admit jural relationship may be implied from it. The balance-sheets contain the assets and liabilities of the firm and, in my view, the liabilities admitted therein will amount to an acknowledgment u/s 18. In the above view, I get force from the observations in Vijaya Kumar Machinery and Electrical Stores Vs. Alaparthi Lakshmikanthamma, . It was held therein that the presentation of the balance-sheets to the Income Tax authorities constituted an acknowledgment of a subsisting liability as on the date of signing of the balance-sheet. Though the question was of academic interest, yet I decided it.

14. The next submission of Mr. Narang is that in computing the period of limitation prescribed for a petition to recover the amounts from the debtors, the petitioner is entitled to exclude the period from the date of commencement of the winding up of the company till the date of obtaining the sanction for instituting the petition u/s 458A read with Sections 512 and 441 of the Companies Act. He also made a reference to Section 15(3) of the Limitation Act. According to him, the company went into creditors' voluntary winding-up on December 11, 1979, and the sanction of the court for filing the petition was granted by this court on February 12, 1981, which period should be excluded.

15. I have given thoughtful consideration to the argument but am not impressed with it. Section 458A is in Chapter II of Part VII which relates to winding up by the court. Voluntary winding-up of a company is contained in Chapter III of the same part. No provision of law has been brought to my notice by which Section 458A has been made applicable to voluntary winding-up. Section 458A provides that notwithstanding anything in the Indian Limitation Act, 1908, or in any other law for the time being in force, in computing the period of limitation prescribed for any suit or application in the name and on behalf of a company which is being wound up by the court, the period from the date of commencement of the winding up of the company to the date on which the winding-up order is made (both inclusive) and a period of one year immediately following the date of the winding-up order shall be excluded. (Emphasis has been laid by underlining), From a reading of the section as well, it is evident that it applies to a winding-up by the court. It is also evident that the time which is to be excluded is the one from the date of commencement of the winding-up of the company up to the date when the order of winding-up is passed by the court and a period of one year thereafter. In the case of voluntary winding-up, no petition is to be filed and

no order of winding-up is to be passed by the court. Section 441 relates to commencement of winding-up by the court and Section 512 to the powers and duties of the liquidator in voluntary winding-up. I do not think that these Sections are of any assistance to Mr. Narang for interpreting Section 458A. After taking into consideration all the circumstances, I am of the opinion that the petitioner is not entitled to deduction of any period from the period of limitation u/s 458A.

16. Section 15(3) of the Limitation Act, inter alia, provides that in computing the period of limitation for any suit or application for execution of a decree by any liquidator appointed in proceedings for the winding-up of a company, the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of appointment of such liquidator shall be excluded. The sub-section also is of no help to Mr. Narang. It is evident from its reading that it applies only to suits and applications for execution, and not to other proceedings. The present proceedings cannot be said to be a suit or an application for execution. Moreover, its language shows that it applies to winding-up by the court and not to voluntary winding-up as in the latter case the liquidator is appointed simultaneously when a resolution for sending the company to voluntary liquidation is passed. Therefore, I reject the submission of the learned counsel.

17. The petitioner has attached the statement of account with the petition according to which the first loan was advanced on October 5, 1970, and the last loan was advanced on August 13, 1977. The petition was filed on July 4, 1981. It has already been held that the account in this case was not a mutual current account. In that situation, the period of limitation will start running from the date when each loan was advanced by the petitioner to the respondent. If the limitation is reckoned from the dates of the loan, the suit is barred by limitation. However, an amount of Rs. 6,000 was paid by the respondent on July 7, 1978. The petitioner's case is that as the respondent paid part of the amount in acknowledgment of the debt on July 1, 1978, therefore, the limitation will start running from that date. Now, the matter has to be examined from this point of view.

18. It is true that Section 19 of the Limitation Act, inter alia, provides that where payment on account of a debt is made before the expiry of the prescribed period by the debtor, a fresh period of limitation shall be computed from the time when the payment was made. The question to be examined is whether the petitioner is entitled to a fresh period of limitation regarding all the debts from July 7, 1978, or regarding that debt towards which the repayment would be deemed to have been made. Sections 59 to 61 of the Contract Act relate to appropriation of payments made by a debtor to his creditor. The debtor has a discretion u/s 59 to make payment to be applied to the discharge of a particular debt in case there are several debts due from him and the payment is to be applied by the creditor towards that debt. In case the debtor omits to intimate the application of the

amount to a particular debt, the creditor is entitled u/s 60 to apply it at his discretion to any lawful debt actually due, though it may be even barred by limitation. If neither of the parties makes any appropriation, the payment shall be applied u/s 61 in discharge of the debts in order of time, whether they are or are not barred by the law of limitation. In this case, the debtor did not intimate the petitioner to appropriate the payment towards any particular debt, nor did the creditor apply it towards any debt(s). In this situation, the amount, u/s 61 of the Contract Act, shall be deemed to have been applied in the discharge of the debt(s) in order of time. Mr. Narang has urged that a balance had been struck by the petitioner before the payment of the above-said amount and, therefore, the same shall be deemed to have been appropriated towards all the debts which are due on that date. He has made a reference to *Sarab Dial v. Nanda Mal Wazir Chand*, AIR 1936 Pes 143 to support his contention. However, I do not agree with the submission. The balance was not struck by the petitioner with the consent of the partner(s) of respondent No. 1. If any balance was struck, it was a unilateral affair. Consequently, it cannot be held that the amount was appropriated towards the balance which existed on the date of payment of the said amount. The facts in *Sarab Dial's* case, AIR 1936 Pes 143 to which reference has been made by Mr. Narang, are different. There, the balance which was struck was admitted by the parties. Consequently, the observations in that case are not applicable to the case in hand.

19. Adverting to the facts of this case, it will be seen that on January 29, 1977, a total sum of Rs. 14,79,910 was due from respondent No. 1 to the petitioner according to the petitioner's account books. Out of that amount, the two debit entries of Rs. 11,410 and Rs. 78,500 dated March 3, 1975, and May 30, 1976, have not been admitted by respondent No. 1. The petitioner debited the amounts on the ground that these were advanced to respondent No. 1 against defaulted chits. No proof regarding default in payment of the chits has been given. The learned counsel for the petitioner has failed to satisfy me that the amounts were correctly debited to the account of respondent No. 1. If those amounts are subtracted from the amount of Rs. 14,79,910, the balance that remains is Rs. 13,90,000. Out of that amount, the said respondent paid Rs. 13,70,740, thus leaving a balance of Rs. 19,260. The amount debited on January 29, 1977, to the account of respondent No. 1 was Rs. 30,000. The amount of Rs. 6,000 shall be deemed to be adjusted towards that amount. But out of the amount of Rs. 30,000, only an amount of Rs. 19,260 was due to the petitioner. By subtracting the amount of Rs. 6,000 from the said amount, the petitioner is entitled to recover Rs. 13,260. The petition with regard to the said amount only is within limitation. Therefore, I am of the opinion that the petition is barred regarding the amount claimed except the amount of Rs. 13,260.

Issue No. 2:

20. The petitioner was given sanction to institute the present proceedings u/s 512 of the Companies Act in C. P. No. 13 of 1981, by this court, vide its order

dated February 12, 1981, exhibit P-217. Consequently, I decide the issue in favour of the petitioner.

Issue No. 3 :

21. The matter regarding this issue has been dealt with to some extent under issue No. 1. In the accounts filed by the petitioner, respondent No. 1 has disputed three amounts, first, the amount of Rs. 11,410 debited on March 3, 1975, second the amount of Rs. 78,000 debited on May 30, 1976, and third the amount of Rs. 1,27,227.16 debited on March 13, 1978. The first two amounts have been dealt with by me under Issue No. 1. The third amount relates to the unpaid interest for the year 1977-78. In the pronotes, respondent No. 1 agreed to pay interest at the rates from 12 per cent. to 18 per cent. The account regarding payments of interest has been kept separately by the petitioner. Copies have been produced on the record which are exhibits P-215 and P-216. It has not been shown to me that the amount has not been correctly calculated or that it was paid. The amount of Rs. 1,27,227"16 was credited to the interest account of respondent No. 1 and debited to its loan account. Therefore, it cannot be held that the debit entry of this amount was not properly made. I hold accordingly.

Issue No. 4 :

22. The question that arises for determination is whether the petitioner is entitled to interest on the amounts claimed by it. The petitioner, in support of its claim, produced various pronotes wherein the rate of interest mentioned is from 12 per cent. to 18 per cent. Kapil Dev, P.W-13, stated that the interest was calculated on the loan amounts at the rates at which the same were given to the loanee. Todar Mal, P.W. 12, stated that the petitioner used to charge interest on the loans advanced by it at rates varying from 12 per cent. to 18 per cent. The respondents have not been able to show that the aforesaid statements are incorrect. Consequently, I hold that the petitioner is entitled to interest at rates varying from 12 per cent. to 18 per cent. as specified in the relevant documents and if interest is not specified, it is entitled to the same at the rate of 12 per cent. per annum.

Issues Nos. 5 and 6

23. Both the issues are inter-linked and I shall deal with them together. Exhibit P-222 is the partnership deed dated April 1, 1956, between Raj Kumar, Chaman Lal (since deed.) and Kidar Nath. It is stated in it that the parties earlier constituted a partnership with Bal Mukand Aggarwal and others out of whom Bal Mukand and others retired on March 31, 1976, and the remaining partners agreed to continue and carry on as partners. It further says that the partnership shall be entitled to continue the business in its old name and it shall be liable to discharge the liabilities of the old partnership firm. Raj Kumar, R.W. 1, has also admitted that at the time when the partnership deed, exhibit P-227, was written, the liabilities of the earlier firm were taken by the new firm. He is looking after the business of the firm after the death of his father. The learned counsel for the

respondents also did not challenge the aforesaid facts. Consequently, I decide both the issues in favour of the petitioner.

Issues Nos. 7 to 9, 9A and 9B :

24. The burden of proving issue No. 8 was on the petitioner and its counsel has not pressed the same. Consequently, I hold that respondents Nos. 4 to 8 are not proved to be the sureties. The burden of issues Nos. 7, 9, 9A and 9B was on the respondents and their counsel also has not pressed the same. Therefore, they are decided against them.

Relief:

25. In view of the aforesaid findings, I partly accept the petition and grant a decree against respondents Nos. 1 to 3 for the recovery of Rs 13,260 with interest at the rate of 12 per cent, per annum as provided in the pronote, exhibit P-128, from January 29, 1977, till date, with proportionate costs. The petitioner is also entitled to future interest till the date of realisation. The amount was raised by the respondents for the purposes of business. Consequently, I fix the rate of future interest at 12 per cent. per annum.