

(2004) 02 RAJ CK 0016

In the Rajasthan High Court

Case No : Company Petition No. 1 of 1995 and Company Application No. 33 of 2000

Official Liquidator

APPELLANT

Vs

Bhagwat Singh

RESPONDENT

Date of Decision : 06-02-2004

Acts Referred:

Companies Act, 1956 — Section 446, 447

Citation : (2004) 55 SCL 613

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Amod Kasliwal, for the Appellant;

Judgement

S.K. Keshote, J.—On 24-2-2000, the Court issued notices of this application to the respondent. Mr. Dalip Singh Shekhawat, made appearance on behalf of the respondent on 10-1-2003. At the request of Mr. Shekhawat four weeks time was allowed to him to file reply to the application. On 2-5-2003 Mr. Manu Bhargava sought an adjournment on the ground that Mr. Dalip Singh Shekhawat, is busy due to marriage of his younger brother and the matter was adjourned to 30-5-2003. However, in the matter, reply to the application has not been filed till date. Thus, the averments made in the application stands uncontroverted.

2. Respondent No. 1 had taken a loan of Rs. 2,30,425 on 28-3-1994 from the company (in liquidation) for the purchase of a tractor. Despite giving of notices the amount of loan together with interest has not been paid so far. Thus, the application is filed by the Official Liquidator under Sections 446, 447 of the Companies Act, 1956 therein prayer has been made as under: -

"The respondent may be summoned and may be examined u/s 477 of the Companies Act, 1956 on oath in order to fix up the liability with regard To the aforesaid amount and order for payment of Rs. 3,80,201 (Rs. three lakh eighty thousand two hundred one only) as on 27-8-1999 plus further interest @ 12% on the amount thereafter till the date of payment may be passed in favour of the

applicant-petitioner and the respondents may be held liable for payment jointly and severally.

In the alternative the application may kindly be tried u/s 446 of the Companies Act, 1956 and a decree for the outstanding amount may be passed."

3. It is not in dispute that the loan had been taken. The terms and conditions of the loan are also not in dispute. The application is allowed and a decree of Rs. 3,80,201 is passed in favour of applicant Official Liquidator of Amfort Agro Finance Ltd. (in liquidation), B-75/A, Rajendra Marg, Bapu Nagar, Jaipur and against the respondent Nos. 1 and 3. The respondent Nos. 1 and 3 shall pay future interest on the principal amount @ 9% per annum from 27-8-1999 till the payment thereof.

The application accordingly stands disposed of.