

(2005) 08 RAJ CK 0078

In the Rajasthan High Court

Case No : Company Application No. 13 of 2001 and Company Petition No. 1 of 1995

Official Liquidator of Amfort Agro Finance Ltd.

APPELLANT

Vs

Umed Singh

RESPONDENT

Date of Decision : 12-08-2005

Acts Referred:

Companies Act, 1956 — Section 446, 447

Citation : (2006) 68 SCL 481

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

Bench : Single Bench

Advocate : B.K. Sharma and V.K. Khubchandani, for the Appellant; Manish Kumawat, for the Respondent

Judgement

S.K. Keshote, J.—The applicant, in this application under Sections 446 and 447 of the Companies Act, 1956, has prayed for grant of following relief :

(i) The Respondent(s) may be summoned and may be examined u/s 477 of the Companies Act of 1956 on oath in order to fix up the liability with regard to the aforesaid amount and order for payment of Rs. 29,900 (Rupees twenty nine thousand nine hundred only), as on 10-11 -1999 plus further interest @ 12 per cent 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,

(ii) 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.

(iii) Any other appropriate order or direction which may be considered just and proper in the facts and circumstances of the case may kindly be passed in favour of the Applicant.

2. The respondent, in the reply to the application, has taken the defence that on 16-3-1994 he deposited a sum of Rs.20, on 31-3-1994 Rs. 800 and on

31-3-1994 Rs. 10,000 respectively, with the Official Liquidator. In support of his claim, the respondent has filed the receipts.

3. The amount of Rs. 20 and Rs. 800 cannot be given set off in favour of the respondent for the reason that Rs. 20 is not the payment towards the loan amount and Rs. 800, as per the receipt itself is towards the service charges.

4. The receipt of deposit of Rs. 10,000 has been admitted by the applicant. The respondent has further taken defence that he has made repayment of loan amount in instalment of Rs. 1,000 per month to the agent of the Company (in liquidation). There is no proof of the same.

5. The respondent is ex-military personnel, aged of 61 years. As against the claim made by the applicant, the respondent has deposited Rs. 9,200 on 18-5-2005, Rs. 800 on 1-6-2005 and Rs. 5,000 on 24-5-2005 in the office of the applicant.

6. In the facts of this case I am of the opinion that the prayer made by the respondent for full and final settlement of the claim of the applicant in Rs. 15,000 deserves acceptance.

7. In the result the application is disposed of in the terms that the claim of the applicant against the respondent stands settled for Rs. 15,000. Nothing remains due against the respondent.