

(2006) 04 BOM CK 0005

In the Bombay High Court

Case No : Appeal No. 205 of 2006 in Miscellaneous Petition No. 61 of 2000

Vinod Kumar M. Gadia and Another

APPELLANT

Vs

SICOM Ltd.

RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 22
State Financial Corporations Act, 1951 — Section 31(1)

Citation : (2008) 141 CompCas 171

Hon'ble Judges : S.J. Vazifdar, J;S. Radhakrishnan, J

Bench : Division Bench

Advocate : Abhay Pakti, instructed by Joseph and Associates, for the Appellant;
K. Setalwad, instructed by M.P. Rege and Co., for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for the appellants and the respondent.

By this appeal the appellants are seeking to challenge the order dated April 25, 2005 Sicom Ltd. Vs. Prabhudayal B. Chamaria, , passed by the learned single judge in the petition u/s 31(1)(aa) of the State Financial Corporations Act. The main grievance of the appellants is that in view of Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985, the above proceedings could not have been proceeded with against the appellants who were only guarantors.

2. We have perused a Division Bench judgment of our High Court in Dewal Singhal v. State of Maharashtra [2001] 106 Comp Cas 587, wherein the Division Bench of our court has in unequivocal terms held that the only proceeding against the guarantor of a loan granted to an industrial company which has been declared sick under the Sick Industrial Companies (Special Provisions) Act, 1985, which is barred u/s 22 of the Act, is a "suit" and nothing else. The above proceeding before the learned single judge was not a suit at all. In view of the aforesaid judgment, we cannot find any error in the judgment of the learned single judge. The appeal is devoid of any merit hence the same is dismissed.