

**Appellant Vs. Respondent**

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**SooperKanoon Citation :** [sooperkanoon.com/1061353](http://sooperkanoon.com/1061353)

**Court :** Kolkata

**Decided On :** Aug-28-2012

**Judge :** Sanjib Banerjee

**Appellant :** Appellant

**Respondent :** Respondent

**Judgement :**

CP No.77 of 2012 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction IN THE MATTER OF : FORTUNE FURNITECH PRIVATE LIMITED -ANDHDFC BANK LIMITED Appearance Mr.D.Basak, Advocate BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date :

28. h August, 2012.

The Court : None appears on behalf of the company even at the second call.

A copy of an affidavit-in-opposition has apparently been served on the petitioner but none appears to have been filed in Court.

The claim of the unsecured petitioning creditor is on account of monies lent and advanced to a company which has not merged in the company which is the subject-matter of the present petition.

The credit facilities were accorded to the company and the company appears not to have repaid the amount.

The statutory notice was issued on behalf of the petitioning creditor on November 19, 2011, claiming that the petitioner had agreed to lend and advance a sum of Rs.1.40 crore as term loan as per the terms and conditions of the letter of sanction.

The statutory notice also spoke of the company maintaining a current account with the petitioner bank.

The petitioner also claimed interest as per the agreement between the parties.

The statutory notice demanded payment of a total amount of Rs.63,97,150.19 as at October 31, 2011 together with future interest payable as per the agreement.

Despite due receipt of such notice, the company did not reply thereto.

It is evident that the company has no defence to the claim of the petitioning creditor and a statutory presumption has arisen of the company's inability to pay.

Accordingly, CP No.77 of 2012 is admitted for the principal sum of Rs.63,97,150.19 together with interest thereon at the rate of 6% per annum.

If the entire amount, inclusive of interest and costs assessed at 300 GM, is paid off by the company to the petitioner within a fortnight from date, the petition will remain permanently stayed.

In default, the petition will be advertised once in The Statesman and once in Bartaman.

The advertisements should indicate that the matter will appear before Court on the first available working day after the expiry of four weeks from the date of the publications being made.

Publication in the Official Gazette will stand dispensed with.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) sg.

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