

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY**

**INSOLVENCY PETITION NO.7 OF 2015
WITH
NOTICE OF MOTION NO.10 OF 2015
IN
INSOLVENCY NOTICE NO.35 OF 2014**

Re :

Dhananjay Y. Pattani

... Judgment Debtor

Ex-Parte :

Vimal Bal Patil

... Petitioning Creditor

Mr. Anil P. Bagwe, for Petitioning Creditor.

Ms. Mamta Shah, for Judgment Debtor.

Mr. D.Y.Pattani, Judgment Debtor, present.

Ms. Taruna Pattani, wife and Ms. Bobby D. Pattani, daughter of Judgment Debtor, present.

Dr. Sujata Rao, Daughter of Petitioning Creditor, present.

CORAM: S.J. KATHAWALLA, J.

DATE: 11th MAY, 2015

PC.:

1. Summary Suit No.2016 of 2010 was filed by the Petitioning Creditor Ms. Vimal Bal Patil and her husband Mr. Bal Patil (now deceased) against the Judgment Debtor Mr. D.T.Pattani to recover a sum of Rs.7,50,000/- along with interest thereon @ 18% p.a. Accordingly the Summary Suit was decreed on 19-07-2011. As on date, an amount of Rs.15,51,139/- is due and payable by the Judgment Debtor to the Petitioning Creditor.

2. An amount of Rs.97,500/- has been paid by the Judgment Debtor to the Petitioning Creditor. Since the Judgment Debtor failed and neglected to pay the balance decretal amount, the Petitioning Creditor served Insolvency Notice No.35 of 2014 dated 09-12-2014 on the Judgment Debtor. The Judgment Debtor has taken out the present Notice of Motion for setting aside the Insolvency Notice dated 27-11-2014. No case on merits is made out for setting aside the said Notice. Infact, the Court has noted that the ownership flat which earlier stood in the name of the Judgment Debtor has been transferred by the Judgment Debtor in the year 2009 in the name of his wife i.e. Ms. Taruna Pattani. However, the matter has been kept in Chamber to assist the parties to arrive at an amicable settlement. After certain arguments/discussions, the following order is passed by consent of the parties:

(i) The Judgment Debtor undertakes to pay an amount of Rs.9,00,000/- to the Petitioning Creditor in full and final settlement of her claim under the decree dated 19-07-2011 as follows :

(a) Rs.1,00,000/- on or before 13-05-2015.

(b) Balance amount of Rs.8,00,000/- in equal monthly installments of Rs.25,000/- on or before the 10th day of each month, commencing from June, 2015.

(ii) The wife of the Judgment Debtor i.e. Taruna Pattani, who is

present in Court, undertakes to the Court that until the entire amount as agreed and undertaken hereinabove is paid by the Judgment Debtor to the Petitioning Creditor, the Petitioning Creditor and her heirs shall have a charge over her ownership flat namely E/211, Kamala Nagar Co-op. Housing Society Ltd., M.G.Road, Kandivali (W), Mumbai – 400 067 (the said flat) and she shall not not sell, alienate, encumber, part with possession and/or create third party rights in respect of the said flat without seeking prior permission from this Court.

(iii) The original Share certificate issued by the Kamala Nagar Co-operative Housing Society Ltd., qua the said flat is handed over in Court. The Prothonotary and Senior Master of this Court shall retain the said Certificate in safe custody until this Court by its order directs the Prothonotary to hand over the same to Ms. Taruna Pattani.

(iv) The Judgment Debtor states that he is a tenant of the premises situated at 2-H, Naaz Building, 2nd Floor, Naaz Cinema Compound, Lamington Road, Mumbai – 400 004, admeasuring 800 sq.ft. (the Office premises). He undertakes that until the entire amount as undertaken herein is paid to the Petitioning Creditor, he shall not surrender his tenancy rights to the landlord and/or sell, alienate, encumber, part with possession and/or create third party rights in respect of the said premises without permission of this Court.

(v) The Petitioning Creditor, his wife Ms. Taruna Pattani and Ms. Bobby D. Pattani, daughter agree and undertake that in the event of any default in making any payment as undertaken by the Judgment Debtor, they along with Ms. Ruchi Pattani shall vacate the said flat and the Petitioning Creditor shall be entitled to sell the said flat and recover her entire dues.

(vi) The undertakings recorded herein are accepted.

(vi) The above Insolvency Petition as well as Notice of Motion are accordingly disposed of.

(S.J.KATHAWALLA, J.)