

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**IN ITS INSOLVENCY JURISDICTION****NOTICE OF MOTION (L) NO. 21 OF 2015****IN****SHOW CAUSE NOTICE NO. 1 OF 2015****IN****OFFICIAL ASSIGNEE'S REPORT NO. 3 OF 2014****IN****INSOLVENCY PETITION NO. 31 OF 2002**

M/s. Marine Container Service India Pvt.Ltd. ... Applicant

IN THE MATTER BETWEEN :

M/s. Marine Container Service India Pvt.Ltd. ... Creditor

Versus

M/s. Chirag EPME Metalogalva Pvt.Ltd. & Ors. ... Respondents

ALONG WITH**NOTICE OF MOTION (L) NO. 33 OF 2015****IN****SHOW CAUSE NOTICE NO. 1 OF 2015****IN****OFFICIAL ASSIGNEE'S REPORT NO. 3 OF 2014****IN****INSOLVENCY PETITION NO. 31 OF 2002**

Rajesh Dhirajlal Vora ... Insolvent

Ex-parte

Aarti Mehra ... Pet. Creditor

And

M/s. Marine Container Service India Pvt.Ltd. ... Creditor

And

The Official Assignee ... Petitioner

And

Ajmal Amiruddin ... Agent OA

And

The Secretary / Chairman / Managing Director
of Maker Tower A-B CHSL ... Society

And

M/s. Chirag EPME Metalogalva Pvt.Ltd. & Ors. ... Auction
Purchaser

Mr. S. Parikh i/b. Bilawala and Company for the Creditor.

Mr.Simil Purohit i/b. Ganesh Gole for Insolvent.

Mr. S.N. Kamdar i/b. Thakkar and Company for Mr. Rajesh Bhatia.

Mr. Filji Frederick a/w. Ms. A. Joshi i/b. F & F Associates for Respondent Nos.
1,3, 4 and 5.

Mr. Vijay T. i/b. Mulla and Mulla for Respondent No. 2.

Mr. D.D. Madon, Sr.Adv. i/b. F.F. Associates for Noticee Nos.1 to 3.

Mr.Zal Andhyarujina i/b. Mulla and Mulla for Mr.Kapil Agarwal.

Mr. M.D. Narvekar, OA, present.

CORAM : S.J. KATHAWALLA, J.
DATED : 4TH DECEMBER, 2015

P.C.

1. Heard the learned Advocates appearing for the parties and the following order is passed by consent :

i. The Company through its Director Ms. Ruchi Agarwal (4th Respondent herein) undertakes to this Court to pay an amount of Rs. 1 Crore to the Official Assignee in full and final settlement of the claims made by the Applicants in the aforesaid two Notices of Motion, as follows :

- (a). The amount of Rs.10 Lacs deposited by the Company stands forfeited.
- (b). Ms. Ruchi Agarwal, the Director of the Company (4th Respondent herein) undertakes to this Court that the further amount of Rs.90 Lacs shall be paid by the Company on or before 10th April, 2016.
- ii. Ms. Ruchi Agarwal, the Director of the Company (4th Respondent herein) states that she is the absolute owner of Flat No. 56, Sneh Sadan, S.B. Marg, Opposite Colaba Post Office, Mumbai – 400005 (the said flat) and the said flat is free from any encumbrance except that it is presently in possession of Mr. Rama Shrivastava under a Leave and License Agreement dated 22nd October, 2014, which will expire on 9th October, 2016. Ms. Ruchi Agarwal undertakes not to sell, alienate, encumber and / or create any third party rights in respect of the said flat until the said amount of Rs.90 Lacs is paid by the Company to the Official Assignee and further undertakes that in the event of the Company failing to pay the said amount of Rs.90 Lacs as undertaken in paragraph (i) (b) above, the Court Receiver, Bombay High Court may stand appointed in respect of the same with all powers including the power to sell the said flat through auction and appropriate an amount of Rs.90 Lacs from the net sale proceeds of such sale. The undertakings are accepted.
- iii. Ms. Ruchi Agarwal shall forthwith handover a copy of this order to the Licensee – Mr. Rama Shrivastava.
- iv. Upon payment of the said amount of Rs. 1 Crore, the parties shall have

no claim against one another of any nature whatsoever.

2. In view of this order, the above Show Cause Notice stands discharged and the above Notices of Motion stand disposed of.

(S.J.KATHAWALLA, J.)