

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

INSOLVENCY PETITION NO. 12 OF 2014

Re :

Maxim Edward Mathias ... Debtor

Ex-parte :

Ami Hitesh Mehta ... Petitioning Creditor

ALONG WITH

NOTICE OF MOTION NO. 2986 OF 2014

IN

SUMMARY SUIT NO. 4427 OF 2012

Maxim Edward Mathais ... Applicant

IN THE MATTER BETWEEN :

Ami Hitesh Mehta ... Plaintiff

Versus

Mr. Maxim Edward Mathais ... Defendant

Mr. Punit B. Anand for the Petitioning Creditor.

Mr. R. Pandey i/b. P.V. Dhoptkar for the Judgment Debtor.

CORAM : S.J. KATHAWALLA, J.

DATED : 11TH MARCH, 2015

P.C.

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

i. The ex-parte order, judgment and decree dated 27th November, 2012 passed by the City Civil Court, Mumbai in Summary Suit No. 4427 of

2012 is set aside.

ii. The Advocate for the Defendant – Mr. Maxim Edward Mathais is allowed to file his appearance in Summary Suit No. 4427 of 2012 within a period of one week from the date of this order.

iii. The amount of Rs. 4 Lacs deposited by the Defendant – Mr. Maxim Edward Mathais with the Insolvency Registrar shall along with interest accrued thereon be transferred to the Suit Account through the Registrar, City Civil Court, Mumbai. The said amount shall be invested by the Registrar, City Civil Court, Mumbai, initially for a period of six months and thereafter as per the orders/directions of the Learned Judge assigned to hear Suit No. 4427 of 2012.

iv. The Plaintiff shall take out Summons for Judgment within a period of four weeks from today and forward the same to the Advocate for the Defendant.

v. The Defendant shall within a period of two weeks thereafter file his Affidavit in reply to the Summons for Judgment. Rejoinder if any be filed within a period of one week thereafter.

vi. The trial Court shall on or before 7th May, 2015 decide the Summons for Judgment on its own merits without being influenced by this order.

vii. The above Notice of Motion is accordingly disposed of.

viii. Since the above Petition is based on the ex-parte decree dated 27th November, 2012 which is set aside, the above Petition does not survive and is dismissed.

ix. Parties have agreed that no reasons be given in support of this order.

(S.J. KATHAWALLA, J.)