

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY
NOTICE OF MOTION NO. 51 OF 2014
IN
INSOLVENCY NOTICE NO. N/9/2014

Re :

M/s. S.P. Builders and Ors. ... Judgment Debtors

Ex-parte :

Shrikrishna Murlidhar Khandelwal ... Petitioning Creditor

Mr. Anil P. Bagwe for the Petitioning Creditor.

Mr. Amit Sheth for the Judgment Debtors.

CORAM : S.J. KATHAWALLA, J.

DATED : 4TH MARCH, 2015

P.C.:

1. By the above Notice of Motion, the Judgment Debtor No. 1 seeks the following relief :

“(a) That the Insolvency Notice No. 9 of 2014 dated 20th March, 2014 taken by the Judgment Creditor abovenamed and served on the Judgment Debtor No. 1 by substituted service on 7th May, 2014 be set aside”.

2. Admittedly, a Decree dated 4th October, 2011 is passed against Debtor No. 1 in Summary Suit No. 564 of 2009. The Debtor No. 3 took out Notice of Motion being No. 3510 of 2011 for setting aside the said Decree in the said Summary Suit. However, the said Notice of Motion was

dismissed on the ground that the same was not served on the original Plaintiff / Petitioning Creditor. The learned Advocate appearing for the Judgment Debtor herein states that in any event the Judgment Debtor was advised to withdraw the Notice of Motion and to file an Appeal impugning the said Decree. Admittedly, no Appeal has been filed till date challenging the said Decree. In view thereof, no case is made out for setting aside the above Insolvency Notice No. 9 of 2014 dated 20th March, 2014. The above Notice of Motion is therefore dismissed.

(S.J. KATHAWALLA, J.)