

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

INSOLVENCY PETITION NO. 12 OF 2015

Jitendra Honnaya Bangera

represented through

Prakash Chhabria

Power of Attorney

.. Petitioner

Vs.

Suresh Punjabi

.. Respondent

Ms.Lopa M. Joshi for petitioning creditor.

Ms.Archana Jaisingh for debtor.

CORAM : K.R.SHRIRAM, J.

DATE : 17TH NOVEMBER, 2015

P.C.

1 This petition is filed by this petitioner to declare the debtor as an insolvent.

2 The petitioner had given a loan of Rs.2 lakhs on 17.03.2013 to the debtor as he was in need of financial help. The debtor had assured that the amount will be repaid within three months and had also executed a promissory note in which the debtor committed to repay an amount of Rs.2 lakhs along with interest at the rate of 12% per annum within three months.

3 As the debtor did not repay the amount, the petitioner called upon the debtor orally on quite a few occasions and finally by a letter dated

1.04.2015. By the said letter, the petitioner called upon the debtor to repay the amount of Rs.2 lakhs with interest at 12% per annum. The interest as on 1.03.2015 had accumulated about to Rs.48,000/-. In reply, the debtor, by his letter dated 10.04.2015, has categorically informed the petitioner that he has no source of income and is dependent on his family members for living. He has also stated that he has exhausted the loan amount of Rs. 2 lakhs and has no means to repay the said amount.

4 The counsel appearing for the debtor confirms having received a copy of the petition way-back in August 2015, i.e., more than three months and no reply has been filed. The counsel is not even able to make any offer as to how this amount is going to be repaid. In the circumstances, it is quite clear that the judgement debtor has committed an act of insolvency under Section 9(1)(g) of The Presidency-Towns Insolvency Act, 1909. It is, therefore, just and equitable that the debtor is adjudged as insolvent. The judgement debtor-Suresh Nathurmal Punjabi is, therefore, declared as insolvent.

5 The petition is accordingly disposed.

(K.R. SHRIRAM, J.)