

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 6 OF 2015

IN

NOTICE NO. N/25 OF 2014

Amarchand K. Sharma and Anr. ... Applicants/Judgment Debtors
Versus
Rajkumar Mohansing Bajaj ... Judgment Creditor

Ms. Kavita Lalwani for Judgment Creditor.
Mr.S.A. Bhalwal i/b. Vyas and Bhalwal for the Judgment Debtors.
Mr.Amarchand K. Sharma (Debtor No. 1), present in person.

CORAM : S.J. KATHAWALLA, J.
DATED : 26TH FEBRUARY, 2015

P.C.:

1. The above Notice of Motion is taken out by the Applicants /
Judgment Debtor Nos. 1 and 2 for the following reliefs :

*“(a) That the Notice of Insolvency No. N/25 of 2014 dated 18th
September, 2014 issued by the Registrar of Insolvency for a sum of
Rs.8,51,273.33/- paise taken out by the Judgment Creditor be set
aside and quashed”.*

2. The only submission made by Mr.Bhalwal on behalf of the
Applicants / Judgment Debtors is that M/s. Amar Tubes Private Limited
had filed the Reference before the BIFR under Sick Industrial Companies
Act, 1985. The said reference was dismissed on the ground that the said

proceedings stood abated in view of the fact that the secured creditor namely UCO Bank had proceeded under Section 13(4) of SARFAESI Act. An appeal is preferred before the AAIFR impugning the said order dated 15th November, 2012.

3. The learned Advocate appearing for the Judgment Creditor has correctly pointed out that under the Decree passed by Bombay City Civil Court in Summary Suit No. 5373 of 2012, it is specifically stated that the Applicants are jointly and severally liable to pay the decretal amount to the Judgment Creditor. In view thereof, the Insolvency Notice was served on the Applicants in their individual capacity. The Applicants have failed to pay the said amount. The above Insolvency Notice is maintainable and the Applicants cannot seek any protection under Section 22 of Sick Industrial Companies Act, 1985. I am in agreement with the submission advanced on behalf of the Petitioning Creditor. The above Notice of Motion is therefore dismissed.

(S.J. KATHAWALLA, J.)