

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

**NOTICE OF MOTION NO.17 OF 2016
IN
INSOLVENCY PETITION NO.141 OF 2004**

Kotak Mahindra Bank Ltd.Applicant

IN THE MATTER BETWEEN :

Anant V.HegdeInsolvent

Ex-parte :

M/s.Manipal Finance CorporationPetitioning creditor

And

The Official Assignee, High Court, BombayRespondent

Mr.Kishore Jain i/by Najafiya Shroff for the applicant.

Mr.M.D.Narvekar Official Assignee present.

**CORAM : K.R.SHRIRAM,J
DATE : 1.3.2016**

P.C.:-

1 This application is for leave under the provisions of Section 17 of the Presidency Towns Insolvency Act to take steps to realize the securities given by the insolvent in connection with the facilities for the dues whereunder the applicant has become entitled to make recoveries, subject to the Official Assignee being associated while undertaking the process of effecting sale thereof. The counsel Mr.Jain submits that though under the proviso of section 17, as a secured creditor, he is entitled to realize or otherwise deal with the securities, still by way of abundant caution, he is seeking leave of this

court. In the matter of ¹***Official Liquidator, Uttar Pradesh & Uttarakhand Vs. Allahabad Bank & Ors.*** the Apex court while dealing with the provisions of RBD Act and the Companies Act 1956 has in paragraph-31 observed as under :-

"The aforesaid analysis makes it luculent that DRT has exclusive jurisdiction to sell the properties in a proceeding instituted by the banks or financial institutions, but at the time of auction and sale, it is required to associate the Official Liquidator. The said principle has also been reiterated in Pravin Gada v. Central Bank of India."

2 In view of the above, Mr.Jain submits that though it relates to RBD Act and the Companies Act, the applicant is seeking leave only as and by way of abundant caution.

3 I have considered the affidavit in support and also heard Mr.Jain. Mr.Narvekar, Official Assignee, states that he has no objection. Accordingly, Notice of Motion disposed in terms of prayer clause-(a) which reads as under :-

"(a) That the Applicant be granted appropriate leave, inter alia, under the provisions of Section 17 of the Presidency Towns Insolvency Act, to take steps to realize the securities given by the Insolvent in connection with the facilities for the dues whereunder the Applicant has become entitled to make recoveries, subject to the Official Assignee being associated while undertaking the process of effecting sale thereof."

(K.R.SHRIRAM,J)

1 (2013) 4 Supreme Court Cases 381