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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INSOLVENCY NOTICE (L) NO. 25 OF 2016

Nitin S. Kasliwal ...Debtor
vs
ICICI Bank Ltd. ...Judgment Creditor

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Mr Nitin Thakkar Sr. Advocate a/w Anoj Menon, Shreevardhini Parchure and Yuvraj K. Singh i/b Desai & Diwanji for the Judgment creditor.

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CORAM : B. P. COLABAWALLA J.

JUNE 07, 2016

P.C. :

In the present proceedings ICICI Bank (the Judgment Creditor) has sought for issuance of an Insolvency Notice against the Debtor on the basis of a Recovery Certificate that has been passed in its favour by the Debt Recovery Tribunal, Bangalore, ("DRT") in Original Application No.722 of 2014 and Original Application No.383 of 2014.

2 Mr Thakkar, learned Senior Counsel appearing on behalf of the Judgment Creditor fairly pointed out to this Court that in the case of **HDFC Bank Ltd. Vs. Kishor K Mehta**[1] a Division Bench

1 2008(6) BomCR 304

of this Court has taken a view that an insolvency notice cannot be issued under Section 9(2) of the Presidency Towns Insolvency Act, 1909, on the basis of a Recovery Certificate passed by the DRT.

3 He also pointed out that this judgment has been subjected to an appeal before the Supreme Court which is still pending. He submitted that he has several other points that he would like to urge which were not considered by the Division Bench in the case of HDFC Bank (supra).

4 I am unable to take a view different from the one in the case of HDFC Bank (supra) on the ground that certain points were not argued or not considered by the Division Bench. The judgment in HDFC Bank (supra) is binding on me and following the said decision, I hold that the issuance of an insolvency notice under Section 9(2) of the Presidency Towns Insolvency Act, 1909 cannot be permitted. In this view of the matter, the objections raised by the office are upheld and this application is dismissed as not maintainable in view of the judgment of this Court in HDFC Bank (supra).

(B. P. COLABAWALLA J.)