

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

NOTICE OF MOTION NO. 10 OF 2017

IN

RULE NISI NO. 3 OF 2016

IN

INSOLVENCY PETITION NO. 8 OF 2015

Dr. Naveenkumar K. Gutpa & Anr. ...Applicants

In the matter of

Navin Gupta & Anr. ...Debtors

Exparte

Choithram Galomal Sewlani ...Judgment Creditor

Ms. K.S. Lalwani, for the Petitioning Creditor.

Mr. Saket Ketkar, for the Applicants/Insolvents.

Mr. Rahul Pant, i/b M/s, N.N. Vaishnawa & Co., for one of the Creditor.

Mr. M.D. Narvekar, Official Assignee present.

CORAM : R.D. DHANUKA, J.

DATE : 24 March 2017

ORDER :

1. The learned Counsel for the Applicants (Insolvents) states that they have already settled the dispute with the Petitioning Creditor. Ms. Lalwani, the learned Counsel for the Petitioning Creditor admits that the dues of her client are settled by the Insolvents. Statement made by both the parties are accepted.

2. The Insolvents have deposited Rs. 2.5/- Lakhs with the Official Liquidator in respect of the claim of Ramesh Kimatram Gianani, who has filed proof before the Official Assignee on 27 January 2017. This claim made by Ramesh Kimatram Gianani is disputed by the Insolvents. The claim of Ramesh Kimatram Gianani is thus, required to be adjudicated upon by the Official Assignee. The Insolvents have also furnished an undertaking to bring the additional amount in the event of Official Assignee coming to the conclusion that the claim of Ramesh Kimatram Gianani is more than the amount deposited by the Insolvents.

3. The Insolvents are required to deposit the commission charges of the Official Assignee. Official Assignee is permitted to deduct

the amount towards the commission charges from the amount lying with him in the estate of the Insolvents. If any further amount is liable to be paid to the Official Assignee towards the commission charges amount and other expenses, same shall be paid by the Insolvents.

4. I therefore, pass the following order :-

(i) Notice of Motion is made absolute in terms of prayer clause (a) to (f).

(ii) The claim made by Ramesh Kimatram Gianani shall be adjudicated upon by the Official Assignee within a period of six weeks from today.

(iii) The Insolvents and the Claimant are directed to remain present and to co-operate with the Official Assignee for adjudication of the claim made by Ramesh Kimatram Gianani.

(iv) It is made clear that if any further amount is required

to be deposited by the Insolvents pursuant to the adjudication of the Official Assignee, same shall be deposited by the Insolvents within a period of four weeks from the date of communication of such order.

- (v) Notice of Motion is disposed of in aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]