

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

INSOLVENCY PETITION NO.1 OF 2018

Ramesh Kimatram GiananiPetitioning Creditor

V/s.

M/s. Radhika-Tex and Ors.Judgment Debtors

Mr. Armaan Grewal i/b. N.N. Vaishnawa and Co. for petitioning creditor.

Mr. D.J. Ghyal i/b. Mr. Anil P. Bagwe for judgment debtors.

CORAM : K.R.SHRIRAM, J.

DATE : 17th APRIL, 2018

P.C.:

1 On 20th February, 2018, Mr. Bagwe, counsel appearing for judgment debtors gave an undertaking to file Vakalatnama. Vakalatnama has been filed but the petition itself was served upon judgment debtors before 20th February, 2018. Mr. Grewal states that it was served on 6th/7th February, 2018.

2 More than two months have passed since then and no affidavit in reply opposing the petition has been filed. Mr. Ghyal, advocate instructed by Mr. Bagwe states that Mr. Bagwe is in personal difficulty but has no answer as to why no reply has been filed. Mr. Ghyal states that it is a fresh matter. I do not understand the meaning and there is nothing in law or in the rule books which states that reply has to be filed only when the matter becomes stale.

3 Therefore, since no reply has been filed and none of the averments in the petition are controverted, the petition has to be allowed and is hereby allowed in terms of prayer clause – (a) which reads as under :

“(a) That an order adjudicating debtors as insolvents may be passed and they may be adjudicated as insolvents.”

4 Petition accordingly stands disposed.

5 The Official Assignee to take necessary steps in accordance with the law and procedure and to invest the amount so realized from the estate of the Insolvents/Insolvents Firms with any Nationalized Banks as per circular issued by the Office of the Prothonotary and Senior Master.

(K.R. SHRIRAM, J.)