

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

**NOTICE OF MOTION NO.57 OF 2009
IN
INSOLVENCY PETITION NO.10 OF 2008**

Ila Rohit Sanghvi and Ors.Applicants

V/s.

Pankaj Champaklal Gandhi & Ors.Respondents

Ms. Aarti Kulkarni a/w. Mr. Nilesh Parab I/b. Mr. Sachin Masurkar for applicants.

Mr. Bhavik Manek I/b. Mr. Shyam Mehta for insolvent.

Mr. Devang Sanghvi, applicant no.1(b) present.

Mr. P.C. Gandhi, insolvent present.

Mr. E.B. Shivkumar, Deputy Official Assignee present.

CORAM : K.R.SHRIRAM, J.

DATE : 21st AUGUST 2018

P.C.:

1 This notice of motion is taken out seeking an annulment of the adjudication of insolvent on the ground that insolvent has self acquired immovable property. The property has been identified as Flat No.21, Gautam View Co-operative Housing Society Limited, Seven Bungalows, Andher (West), Mumbai 400 053. Applicant had filed execution proceedings against insolvent and in those proceedings, the Court came to a conclusion that the said property was not a self acquired property of insolvent but an HUF property in which insolvent had 25% undivided shares. An appeal has been preferred by applicant against the said order, which is still pending. At this point of time, this notice of motion is infructuous because the entire basis of this notice of motion is that the said property is self acquired

property of insolvent.

2 Ms. Kulkarni, counsel for applicant submitted that on an earlier occasion this notice of motion had been adjourned sine die. In my view, that makes no difference.

3 Notice of motion dismissed with liberty to applicant to approach this Court for identical reliefs after the appeal is decided. It is made clear that this Court has not made any observation or expressed any view on the merits of this application.

4 After the order was dictated, I asked applicant's counsel whether they wish to withdraw the notice of motion with liberty to approach this Court for identical reliefs after the appeal is decided, Ms. Kulkarni, on instructions from applicant, stated that they are happy with the order.

Digitally
signed by
Gauri Amit
Gaekwad
Date:
2018.08.24
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(K.R. SHRIRAM, J.)