

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

OFFICIAL ASSIGNEE'S REPORT NO.6 OF 2017

WITH

NOTICE OF MOTION NO.56 OF 2017

WITH

NOTICE OF MOTION NO.73 OF 2017

IN

INSOLVENCY PETITION NO.16 OF 1999

Re: Parmanand S. Pandey and Anr.

....Insolvents

Ex-parte :

Gopaldas Lilaram Valecha & Anr.

....Petitioning Creditors

Mr. Kevin Gala I/b. Naazish N. Shah for petitioner in Misc. Petition No.4 of 2015.

Mr. Vishal Kanade a/w. Mr. Anil P. Bagwe for insolvents.

Mr. Gauraj Shah, Amicus Curiae.

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

CORAM : K.R.SHRIRAM, J.

DATE : 17th JULY 2018

P.C.:

1 In the order dated 3rd July 2018, in paragraph 1, the name “**Mr. Gaurang Shah**” is corrected to read as “**Mr. Gauraj Shah**”.

2 Rest of the order remains unaltered. Original order to be corrected accordingly.

3 There is Official Assignee's Report No.6 of 2017, Notice of Motion No.56 of 2017 and Notice of Motion No.73 of 2017 listed today.

4 Official Assignee's Report is for issuing Rule NISI against insolvent for having failed and neglected to disclose in the private

examination a flat being Flat No.C-201, 2nd Floor, Nirman Vihar Co-operative Housing Society Limited, Pump House, Andheri (East), Mumbai – 400 093 (the said flat) in the Schedule of assets and liabilities filed by insolvent and consequential orders like valuation, deposit of the value, etc.

5 Pursuant to leave granted by this Court on 6th September 2017, insolvent has filed a notice of motion no.56 of 2017 to allow insolvent to amend the Schedule of assets by disclosing the said flat and to direct the learned Official Assignee to take further steps in accordance with Presidency Towns Insolvency Act, 1909. Insolvent, in the affidavit in support, have tendered unconditional apology for not disclosing the said flat and also sought forgiveness.

6 Having considered the affidavit in support, I am inclined to condone the lapse and permit applicant to amend the Schedule of assets and liabilities to disclose the said flat.

7 Mr. Gala, counsel appearing for applicant in notice of motion no.73 of 2017 states that applicant therein has already filed a suit being suit no.237 of 2014 in the City Civil Court for specific performance of two Agreements to Sale against insolvent. Mr. Gala further states that by an order dated 17th November 2015, this Court has also granted leave to permit his client to implead Official Assignee as party defendant no.2 in the said

suit. Therefore, while amending the Schedule of assets and liabilities, insolvent to also mention by way of footnote that the said flat is subject matter of suit no.237 of 2014 pending in the Bombay City Civil Court at Dindoshi.

8 Notice of motion no.56 of 2017 accordingly stands disposed.

9 Mr. Gala states that he is not pressing the other notice of motion no.73 of 2017. Therefore, notice of motion no.73 of 2017 dismissed as withdrawn.

10 As I have already granted the relief as prayed for in notice of motion no.56 of 2017, Official Assignee's Report No.6 of 2017 does not survive and is accordingly disposed.

11 At this stage, Mr. Gala points out that suit no.237 of 2014 is not making any progress because there is a chamber summons filed by his clients, who is plaintiff in the said suit, for leave to amend the plaint and to bring on record Official Assignee.

12 As this Court has already granted leave to implead Official Assignee as defendant no.2, Bombay City Civil Court, Dindoshi to take up the chamber summons immediately and dispose the same so that the suit can proceed further and Official Assignee can also file necessary affidavits. Bombay City Civil Court, Dindoshi is also requested to dispose of the suit at

the earliest and in any event within six months from today. Mr. Gala on behalf of plaintiff undertakes to this Court that at no stage will plaintiff even seek an adjournment to the Bombay City Civil Court and if sought, the Court should reject the same.

13 At this stage, Mr. Kanade, counsel for insolvents states that his clients and Mr. Gala's clients are trying to amicably resolve the dispute. Mr. Kanade requests that the insolvency petition be listed for directions on 7th August 2018 by which date the parties will try to settle their inter se dispute.

14 The Court has to note with appreciation the immense contribution of Mr. Gauraj Shah, Amicus Curiae in disposing of Official Assignee's Report and two notices of motion.

15 Stand over to 7th August 2018 for directions.

Gauri
Amit
Gaekwad

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