

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

**NOTICE OF MOTION NO.57 OF 2017
IN
INSOLVENCY PETITION NO.21 OF 2016**

Alka Kaushal)....Applicant

IN THE MATTER BETWEEN :

Prashant Mamgain)....Pet. Creditor
V/s.

Alka Kaushal)....Judg.Debtor

Mr.Ramesh C.Jain for Pet. Creditor.
Mr.Shrinivas Deshmukh i/by Anoop Sharma for Insolvent.
Ms.C.J.Bhatt, Deputy Official Assignee present.

**CORAM : K.R.SHRIRAM,J
DATE : 20.2.2018**

P.C.:-

1 Further to the order passed by this court, the judgment debtor has filed an affidavit dated 15.2.2018 of one Madhukar Soma Gawde confirming publication of notice in 'Free Press Journal' , Navshakti, Janmabhoomi and Asian Age, all on 8.2.2018 notifying that Notice of Motion for recall of the order declaring the judgment debtor as an insolvent will be taken up on 20.2.2018 i.e., today. Office of the official assignee states that they have not received any claim or objection from any party. Judgment debtor has filed an affidavit dated 16.2.2018 stating that there are no other creditors.

2 Shri Jain for petitioning creditor states that his instructions are to accept sum of Rs.14 lakhs deposited by the judgment debtor with the Official Assignee in full and final settlement of the decree that the petitioning creditor has against the judgment debtor. Mr.Deshmukh for Insolvent on instructions from Mr.Sharma states that judgment debtor has no objection.

3 Deputy Official Assignee states that office of Official Assignee is entitled to 3% commission on this amount of Rs.14,00,000/- and the same has to be paid by the petitioning creditor. Mr.Jain for the petitioning creditor states that the amount as payable under the decree has now ballooned to Rs.14,92,000/- and since the petitioning creditor is only accepting Rs.14,00,000/- with accumulated interest which will be about Rs.10,000 maximum, commission to Official Assignee should be paid by the judgment debtor. Mr.Deshmukh states that commission on the amount of Rs.14,00,000/- with accumulated interest @ 3% p.a. will be paid by judgment debtor.

4 In view of the statement made, the judgment debtor is directed to deposit 3% of Rs.14,00,000/- plus accumulated interest

with the Official Assignee within two weeks from today. Upon the deposit being made, the office of the Official Assignee to foreclose the fixed deposit and pay over the entire amount of Rs.14,00,000/- with accumulated interest to the petitioning creditor.

5 Notice of Motion accordingly stands disposed in terms of prayer clauses-(a) and (b) which read as under :-

“(a) That the delay if any in preferring the above Notice of Motion be condoned ;

(b) That this Hon'ble Court be pleased to quash and set aside the Order dated 16th August 2017 being Exhibit “C” be set aside.”

6 The order of adjudication is also recalled and set aside. Insolvency petition accordingly stands disposed.

(K.R.SHRIRAM,J)