Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
OFFICIAL ASSIGNEE'S REPORT NO. 4 OF 2018
IN
INSOLVENCY PETITION NO. 2 OF 2016

Indian Steel & Infrastructure Pvt Ltd …Petitioning Creditor

Versus

Soumit Ranjan Jena …Insolvent

WITH

NOTICE OF MOTION NO. 37 OF 2018

IN

INSOLVENCY PETITION NO. 2 OF 2016

Indian Steel & Infrastructure Pvt Ltd …Petitioning Creditor

Versus

Soumit Ranjan Jena …Insolvent

And

Punjab National Bank ...Applicant

Mr Shubham Laturiya, *i/b Intralegal, for the Applicant/PNB.*
Mr MD Narvekar, *Official Assignee, is present.*

CORAM: G.S. PATEL, J
DATED: 4th December 2018

PC:-

NOTICE OF MOTION NO. 37 OF 2018

1. Mr Laturiya appears for the Punjab National Bank. It claims to be a secured creditor of the insolvent, and claims to have a mortgage in respect of the two flats, viz., Flat Nos. 13 and 14, "C" Wing, 1st Floor, Building No. 1, Kalpataru Estate, Jogeshwari Vikhroli Link Road, Andheri (East), Mumbai 400 093, as also in respect of office premises, viz., Office No. A-205, A Wing, 2nd Floor, Everest Grande Commercial Premises CSL, Andheri (East), Mumbai 400 093.

2. The insolvent, Soumit Ranjan Jena, is said to be one of the holders of the two flats and the sole holder of the office premises. The Affidavit in Support says that PNB wishes to proceed independently and to stand outside the insolvency proceedings.

3. In my view, this would be contrary to the interest of the larger body of creditors of the insolvent. It is always open to PNB to lodge its claim before the Official Assignee, but I do not believe that any equitable principle will permit PNB to recover its claim in full, or even substantially, by sale of the mortgage properties to the detriment of other creditors.

4. I propose to make a separate order today (below) in Official Assignee's Report No. 4 of 2018 that sufficiently protects PNB at least as regards the claim over the two residential flats. The Official

Assignee has sought no reliefs in regard to the commercial office premises. It is open to the Official Assignee to take such steps as he thinks fit in that regard.

5. Consequently, the present Notice of Motion is dismissed with the foregoing clarification and observations. All rights and contentions of PNB before the Official Assignee are kept open including, specifically, that being a secured creditor, it is entitled to priority and to the satisfaction of its claim in full in preference to the claims of all other creditors.

6. The Notice of Motion is disposed of in these terms. No costs.

OFFICIAL ASSIGNEE'S REPORT NO. 4 OF 2018

7. The Official Assignee's Report seeks directions *inter alia* in regard to the two flats and deposit of title deeds by the Punjab National Bank. None appears for the insolvent. He is said to be absconding.

8. Punjab National Bank is required to deposit the title deeds in respect of the two flats in question, within a period of three weeks from today.

9. For the reasons set out in the Official Assignee's Report, there will be an order in terms of prayer clauses (a) to (e) with liberty to the Petitioning Creditor and the Official Assignee to apply, if necessary.

10. Official Assignee's Report No. 4 of 2018 is disposed of in these terms.

11. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J)