

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

**NOTICE OF MOTION NO.27 OF 2017
IN
INSOLVENCY PETITION NO.199 OF 2004**

Ramavtar Gupta and Anr.Applicants/Insolvents
V/s.
SICOM Limited and Anr.Petitioners/Creditors

Mr. Rohan Rajadhyaksha, Amicus Curiae present.
Mr. Saket Ketkar for insolvent.
Ms. Vaishali Bhilare for Canara Bank.
Mr. Satish S. Raut for petitioning creditor.
Mr. M.D. Narvekar, Official Assignee present.
Mr. Ramavtar Gupta, insolvent no.1 present.

**CORAM : K.R.SHRIRAM, J.
DATE : 21st AUGUST 2018**

P.C.:

1 On 11th July 2018 the following order came to be passed :

Mr. Ketkar, Advocate appearing for the applicants argued before Court that prayer (b) to (g) are in the nature of claim for damages and is not maintainable by way of this Notice of Motion.

2. What remains is prayer clause (a). Mr. Ketkar states that his instructions are that the applicants will try to settle with the Canara Bank within two to three weeks and request the motion be listed on 7th August, 2018.

3. Stand over to 21st August, 2018.

4. Mr. Ketkar states that he has filed Vakalatnama for the applicants. Earlier Advocate Ravi Jadhav is discharged.

2 What remains now is prayer clause – (a) which reads as under :

(a) that the insolvency petition no.199 of 2004 may be dismissed with heavy costs.

3 I have considered the affidavit in support and no case anywhere in the affidavit in support is made out as to why insolvency petition should

be dismissed. Even if this Court proceeds on the basis that though not expressly stated in the affidavit in support, applicant wants insolvency petition to be dismissed because the entire claim of SICOM as against insolvent is concerned has been paid off still there are other creditors like Canara Bank who is represented by Ms. Bhilare. Ms. Bhilare states that claim of Canara Bank against insolvent is around Rs.69 lakhs plus interest. Ms. Bhilare states that Canara Bank has received about Rs.30 lakhs for which insolvent has been given credit.

4 Therefore, insolvent, if advised, may take out an application for passing an order of annulment, which will be considered independently by this Court on its merits. This notice of motion is not maintainable. Notice of motion dismissed.

5 The Court has to note the immense support received from the Amicus Curiae and also must appreciate Mr. Ketkar's immediate consent to assist applicant in this matter.

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Amit
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signed by
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(K.R. SHRIRAM, J.)