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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY
RULE NISI NO. 10 OF 2018
IN
INSOLVENCY PETITION NO. 9 OF 2018

K Amishkumar Trading Pvt Ltd	...Petitioning Creditor
<i>Versus</i>	
Devi Prasad Steel & Services LLP & Ors	...Judgment Debtors

WITH
NOTICE OF MOTION (L) NO. 1 OF 2019
IN

INSOLVENCY PETITION NO. 9 OF 2018

Mananjay Mehta	...Applicant
<i>In the matter between</i>	
Devi Prasad Steel & Services LLP & Ors	...Debtors
<i>And</i>	
The Deputy Official Assignee, High Court, Bombay	...Respondent

Ms Gayatri Sharma, i/b SK Srivastav & Company, for the Applicant
in IRN No. 10 of 2018.
Ms Sumi Soman, for the Applicant in NMISL No. 1 of 2019.
Ms Minal Parab, for the Debtors.
Mr EB Shivkumar, Deputy Official Assignee present.

CORAM: G.S. PATEL, J
DATED: 22nd January 2019

PC:-

1. The application is by one Mananjay Mehta who is apparently the son of Debtors Nos. 2 and 3 seeking that the Account No. 22410589949 with the Standard Chartered Bank, Sandhurst Bridge branch be activated. This account was frozen in these insolvency proceedings.

2. On 17th April 2018, KR Shriram J adjudicated the debtors as insolvents. At a meeting with the Deputy Official Assignee on 12th June 2018, the Debtors said that they were willing to settle the matter. The entire Affidavit in Support of this Notice of Motion proceeds on the footing that there is indeed such a settlement. This does not appear to be correct simply because the Petitioning Creditor, whose representative is present in Court, instructs his Advocate to say that the Petitioning Creditor is even now demanding his full decretal claim, an amount in excess of Rs.1.50 crores. It appears that when the Applicant, Mananjay attempted, according to him pursuant to the so-called settlement, to issue two cheques for a total of Rs.3 lakhs on this account, it was found that the account had been directed to be closed and those cheques could not be honoured. Thereafter a well-wisher has paid to the Petitioning Creditor an amount of Rs.29 lakhs, which is acknowledged and accepted. The Petitioning Creditor does not seem to be willing to forgo any part of his claim and no Court can compel him to do so. Apart from anything else, I do not see how I can pass such an order allowing the Motion simply because there is

not sufficient money in this account to pay of the remaining decretal claim.

3. Further, the Debtors have done nothing towards filing a statement of assets and liabilities. The examinations are still not complete. A Rule Nisi has been issued and is pending orders. In these circumstances I do not believe that any relief can be granted in the Notice of Motion.

4. The Notice of Motion is dismissed. There will no orders as to costs.

5. List the Rule Nisi on 5th February 2019.

(G. S. PATEL, J)