

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY
INSOLVENCY PETITION NO. 10 OF 2018**

Varsha Vasantraj Kothari

...Petitioning
Creditor

Basanti Baban Gawade Alias Basanti D Sharma

...Debtor

An Advocate, i/b ALN Khatri & Co., for the Petitioning Creditor.

**CORAM: G.S. PATEL, J
DATED: 15th January 2019**

PC:-

1. There is an Affidavit of Service dated 28th August 2018 of a bailiff and clerk from the Office of Sheriff of Bombay and the Constituted Attorney of the Judgment Creditor. It says that the Judgment Debtor was served personally with the Insolvency Petition at 385, Bharat Singh Nagar No. 2, F/6, Near Link Road, Goregaon (West), Mumbai 400 104 on 5th April 2018.
2. The Judgment Debtor is not present. The claim against the Judgment Debtor arises from an *ex parte* decree dated 19th December 2015 in Summary Suit No. 7301 of 2002. The suit was decreed in the amount of Rs. 28,29,770/- and further interest on Rs. 11,50,000/- at 9% per annum from 30th October 2017. The Petition seeks an order of adjudication against the Judgment Debtor.

3. The Petitioning Creditor issued an Insolvency Notice No. N/46 of 2017 for recovery. This was served. There is non-compliance. There is no Notice of Motion to set aside the insolvency notice. It is stated that the Judgment Debtor has within three months from the date of presentation of the Petition committed an act of insolvency by failing to comply with the requisitions, and the act of insolvency is thus complete.

4. Neither the Petitioning Creditor nor any person on her behalf held any security of the Judgment Debtor's estate.

5. Hence the following order:

- (a) The Petition is thus made absolute in terms of prayer clause (a).
- (b) The Official Assignee is appointed of all properties, movable and immovable, of the insolvent wherever situated.
- (c) The estate/assets of the Insolvent will vest in the Official Assignee and shall be divisible between the Insolvent's creditors.
- (d) The Official Assignee is to take all necessary steps in accordance with the circular dated 14th October 2011 issued by the Ministry of Finance, Department of Revenue (Central Board of Direct Taxes), New Delhi, .
- (e) The Official Assignee will invest all amounts realized in accordance with the usual practice followed by his office.

6. Liberty to the Official Assignee to place a Report as and when necessary.

(G. S. PATEL, J)