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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY
INSOLVENCY PETITION NO. 4 OF 2018
WITH
NOTICE OF MOTION NO. 12 OF 2018**

Vinergy International Pvt Ltd

...Petitioning
Creditor

Dimple Dineshbhai Shah

...Debtor

Mr Mikhail Behl, *with Ms Madhuri Melluri, i/b Madekar & Co., for
the Petitioning Creditor.*

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

PC:-

1. The Petitioning Creditor obtained a decree in the amount of Rs. 1,74,25,000/- against the Judgment Debtor and for further interest at 9% per annum from 2nd March 2017 on a sum of Rs. 1 crore in Summary Suit No. 1947 of 2008. The Petitioning Creditor then issued an Insolvency Notice No. 27 of 2017. Attempts at personal service of the Insolvency Notice failed and ultimately the Petitioning Creditor was permitted by an order dated 10th October 2017 to serve the Insolvency Notice by substituted service, i.e. by publication. This was done on 6th November 2017. The Judgment Debtor has failed to comply with the requisitions in the Insolvency

Notice in the time provided. The act of insolvency is thus complete. This is the claim on behalf of the Judgment Creditor which does not hold any security over the Judgment Debtor's estate.

2. The Petition has been served and there is an Affidavit of Service dated 28th August 2018 confirming that the service was effected by publication as permitted by order dated 21st August 2018 (KR Shriram J).

3. In the meantime, the Judgment Creditor filed Notice of Motion No. 12 of 2018 for appointment of the Receiver of the property of the Judgment Debtor, namely, Flat No. 808, "B" Wing, 8th Floor, Shankeshwar Tower, Ghatkoper East, Mumbai 400 077.

4. As far as this Petition is concerned, it has been properly served. None appears for the Judgment Debtor.

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.

7. As far as the Notice of Motion is concerned, it is disposed of finally today with an order in terms of prayer clause (b) granting an injunction restraining the Judgment Debtor, his servants and agents from disposing of, encumbering, alienating, parting with possession or creating third party rights in respect of any of his assets, including the flat mentioned above.

8. The Notice of Motion and the Insolvency Petition are disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)