

IN THE HIGH COURT AT BOMBAY
IN INSOLVENCY
INSOLVENCY PETITION NO. 21 OF 2018

Re :- Mansukhlal Ganatra. ... Debtor/Petitioner.

Before :- The Insolvency Registrar,
High Court, Bombay.

Date :- 27th June, 2019 at 12.30 p.m.

Present:-

Mr. Y. M. Naik, Advocate for the Debtor/Petitioner.

To-day, the matter is kept for passing the Order of adjudication under Section 15 read with Section 6(2)(a) of the Presidency Towns Insolvency Act, 1909.

In this matter, Insolvent has filed/presented the Petition under Section 14 of abovementioned Act on 23rd April, 2018 for being declared him as an Insolvent. After presenting the Petition, the Petition was kept for the Preliminary Examination of the Debtor/Petitioner on 22nd June, 2018, 27th June, 2018, 11th July, 2018, 18th July, 2018, 26th July, 2018, 8th August, 2018, 10th August, 2018, 24th August, 2018, 11th September, 2018, 24th September, 2018, 8th October, 2018, 19th October, 2018 and 29th October, 2018. After examining the Debtor/Petitioner the Preliminary Examination was closed on 1st November, 2018.

After completion of the Preliminary Examination and upon complying with the provision of Rule 83 of Bombay Insolvency Rules, 1910 by the Debtor/Petitioner, the Official Assignee issued Certificate dated 12th June, 2019, inter alia, certifying that the Debtor/Petitioner has furnished such information regarding his estate and effects as required under Rule 83 with the Official Assignee.

Upon enquiry, the Debtor/Petitioner states that he has filed the Petition to declare him as an Insolvent, as he does not have now capacity to repay his Creditors. He further states that he suffered heavy losses and, therefore, his reputation in business circle, friend circle and among his relatives is spoiled and now nobody lends/advances him any money. And, therefore, he made an application to become Insolvent for the first time by filing this Insolvency Petition and no Creditors have filed any Insolvency Petition in this Hon'ble Court or in any other Competent Court against him. He further state that his family business activities were stopped gradually and he is facing financial crisis and heavy losses in business and for the same, he was not in a sound position to repay the monthly instalments of his sanctioned loan to his banks. And, therefore, bankers started issuing notices to recover his dues and it is very difficult for him to survive in the business and to repay his Creditors.

According to him by filing the Insolvency Petition his Creditors may not be harassed for recovering the amount from him. He further added that the Creditors are harassing him by using undue influence of Police Authority as well as anti social elements and, therefore, he also lost his peace of mind.

He further added that he is aware about the consequences of the Order of the adjudication passed against him. After the Order of the adjudication, he will not be able to do the business as well as all his Civil rights will be suspended. His name and reputation in the Society may be spoiled and tarnished. He further states that he is aware about the provisions of Section 17 of the abovementioned Act, wherein on the Order of adjudication, property of the Debtor/Petitioner wherever situate shall vest in the office of the Official Assignee and shall become divisible amongst his Creditors.

Debtor/Petitioner further submitted that upon passing of Order of adjudication as required under Section 24 of the abovementioned Act, he will be filing the Schedule of Assets & Liabilities.

He further confirmed the Order of the adjudication may afford him protection only against the proceedings in Civil Courts and enforcement of Order passed by Civil Court. Debtor/Petitioner further states that he does not have any intention to use the Order of adjudication for seeking protection against Criminal Proceedings or enforcement of Order passed therein. The Debtor/Petitioner further submitted that he is aware that by an Order of adjudication he will not be entitled to seek stay of Criminal or quasi criminal proceedings including the proceedings under Section 138 of the Negotiable Instrument Act.

PER INSOLVENCY REGISTRAR:-

In view of the above and upon reading the Petition of the abovementioned Debtor/Petitioner dated 16th April, 2018 and upon hearing the said Debtor/Petitioner and his Advocate the said Debtor/Petitioner be and he is hereby adjudged Insolvent. The Insolvency Petition is made absolute in terms of prayer clause (a) which reads as under:-

“(a) That an order of adjudication may be made against the debtor abovenamed by this Hon'ble Court.”

It is further Ordered that all the estates and effects of the said Debtor/Petitioner do vest in the Official Assignee of Bombay and the Debtor/Petitioner is directed to attend the office of the Official Assignee as early as possible, to comply with the further requisitions of the Office of the Official Assignee after Order of adjudication.

Sd/-

rrk/srp.

INSOLVENCY REGISTRAR.