

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INSOLVENCY PETITION NO.36 OF 2018**

Re :

Maya Pankaj Patel & Anr. ... Debtors

Ex-Parte :

M/s. Otarmal Kantilal & Co. ... Petitioning Creditor

Mr. Darshit Jain with Mr. Dileep Satale i/by Divya Jain, for Petitioning Creditor.

CORAM: S.J. KATHAWALLA, J.

DATE: 5th NOVEMBER, 2019

P.C.:

1. By the above Petition, the Petitioning Creditor has prayed for an order of adjudication against the debtors mentioned above.
2. According to the Petitioning Creditor, under the decree passed by the City Civil Court dated 16th February, 2015 in Summary Suit No.2952 of 2012, the debtors are indebted to the Petitioning Creditor an amount of Rs.1,38,227/- and further simple interest @ 18% per annum as being the amount due under the said decree.
3. The Petitioning Creditor issued to the debtors an Insolvency Notice being No.N/6 of 2018 dated 26th February, 2018 for recovery of the said amount which is due and payable under the decree obtained by the Petitioning Creditor against the Debtors. The said Insolvency Notices were duly served upon the Debtor No.1 and 2 on 29th June, 2018 and 26th June, 2018. The Debtors have failed and neglected to pay any amount as called for or to take out any proceedings for setting aside the Insolvency

Notice within the stipulated time, thereby committed an act of insolvency on 4th August, 2018 and 1st August, 2018 respectively.

4. The Petitioning Creditor therefore, took out the present Insolvency Petition on 7th September, 2018 for an order of adjudication against the Debtors mentioned above. It is submitted that the debtors mentioned above committed an act of insolvency by not complying with the requisitions of the Insolvency Notice No.N/6 of 2018.

5. The above Insolvency Petition has been duly served upon the judgment debtors on 4th March, 2019 and an Affidavit proving service thereof dated 28th March, 2019 is on record. However, the debtors are absent today and have not filed any Affidavit in Reply thereto. Hence, the facts narrated on behalf of the Petitioning Creditor and the submissions made before the Court on his behalf have remained uncontroverted. In the circumstances, the Petition is allowed in terms of prayer clauses (a) and (b) which are reproduced hereunder :

- “(a) An order of adjudication be passed by this Hon’ble Court against the Debtors abovenamed;
- (b) For costs of this Petition and costs incidental and consequential thereto;”

6. The Insolvency Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)