

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INSOLVENCY PETITION NO.34 OF 2018

Re :

K.S.Cooper

... Debtor

Ex-Parte :

Huned Harawala

... Petitioning Creditor

Ms. Muazma Ansari, for Petitioning Creditor.

Ms. Trupti Surve i/by Mr. Sahil Mahajan, for Debtor.

Mr. Huned Harawala, Petitioning Creditor, present.

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 this Court dated 14th April, 2018 in Summary Suit No.524 of 2017, the debtor is required to pay an amount of Rs.17,27,666/- to the Petitioning Creditor and further interest @ 18% p.a. on the principal amount of Rs.11,45,744/-, as set out in the particulars of claim.

3. The Petitioning Creditor issued to the debtors an Insolvency Notice being No.N/19 of 2018 dated 2nd August, 2018 for recovery of the said amount of Rs.17,27,666/- which is due and payable under the decree obtained by the Petitioning Creditor against the Debtors. The said Insolvency Notice was served upon the Debtor

No.1 on 11th August, 2018 at 2.10 p.m. The Debtor has 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 committing an act of insolvency on 16th September, 2018.

4. The Petitioning Creditor therefore, took out the present Insolvency Petition on 27th October, 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/19 of 2018.

5. The above Insolvency Petition has been duly served upon the judgment debtor and Affidavit proving service dated 29th January, 2019 is on record. However, the learned Advocate for the Judgment Debtor has till date not filed any Affidavit in Reply opposing the averments made in the Insolvency Petition. 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) Order of adjudication may be made by this Hon’ble Court against the Debtors;

(b) For costs of this Petition and costs incidental and consequential thereto;”

6. The Insolvency Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)