

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS INSOLVENCY JURISDICTION**

**NOTICE OF MOTION No. 45 OF 2011
IN
INSOLVENCY NOTICE No. 23 OF 2009**

**WITH
NOTICE OF MOTION No. 42 OF 2009
IN
INSOLVENCY NOTICE No. 23 OF 2009**

**WITH
NOTICE OF MOTION No. 37 OF 2016
IN
INSOLVENCY NOTICE No. 23 OF 2009**

**WITH
COURT RECEIVER'S REPORT No. 182 OF 2011**

ILA Bhupendra Pancholi

...Judgment Creditor

Vs.

M/s. Amratlal & Dhirajlal & Co. and Ors.

...Judgment Debtors

**WITH
NOTICE OF MOTION No. 43 OF 2009
IN
INSOLVENCY NOTICE No. 24 OF 2009**

**WITH
NOTICE OF MOTION No. 46 OF 2011
IN
INSOLVENCY PETITION No. 24 OF 2009**

**WITH
NOTICE OF MOTION No. 36 OF 2016
IN
INSOLVENCY NOTICE No. 24 OF 2009**

Chetna Kishore PancholiJudgment Creditor
Vs.
M/s. Amratlal & Dhirajlal & Co. & Ors. ...Judgment Debtors

.....
Mr. Simil Purohit a/w. Mr. Rubin Vakil i/b. Gajaria & Co., for Judgment Debtors
.....

CORAM : S.C. GUPTE, J.

DATE: 21 JANUARY 2020

P.C.:

1. These Notices of Motion are taken out in the insolvency notice. Notice of Motion Nos. 42 of 2009 and 43 of 2009 are for setting aside the insolvency notice, whereas Notice of Motion No. 36 of 2016 is for permitting the Petitioning Creditor to withdraw from the consent terms, and Notice of Motion No. 37 of 2016 is for proceeding with the insolvency petition. Notice of Motion Nos. 45 of 2011 and 46 of 2011 are for modification of the consent terms. The consent terms, inter alia, require Court Receiver, High Court, Mumbai, appointed as a receiver of all shares of M/s. Nidhi Housing Pvt. Ltd., to sell the suit property by public auction. The Court is informed that so far there has been no offer and the property could not be sold.

2. In the premises, the consent terms, entered into as far back as in October, 2010, have been rendered practically infructuous and cannot be implemented. In that case, the original insolvency proceeding will have to be continued.

3. With these directions, Notice of Motion Nos. 36 of 2016, 45 of 2011 and 46 of 2011 stand disposed of. Notice of Motion No.37 of 2016 does not survive in view of the observations made above and is also, accordingly, disposed of.

4. Coming now to Notice of Motion Nos. 42 of 2009 and 43 of 2009. Learned Counsel informs the Court that pleadings of the parties in the motions are complete and the motions may be taken up for hearing. Accordingly, these notices of motion are stood over to 4 February 2020. Companion Court Receiver's Report, viz. CRR No. 182 of 2011 reporting his inability to sell the property in the circumstances referred to therein, is treated as disposed of.

(S.C.GUPTE, J.)