

NOTICE OF MOTION No. 60 OF 2019
IN
INSOLVENCY PETITION No.47 OF 1987

Rajes Art Printers Pvt. Ltd. ...Applicants/Org. Defendants

In the matter of:

Ramesh Sitaram Modi
(Since deceased) ...Insolvent

Ex-parte:

Noble Graphics	Petitioning Creditor
And	
The Official Assignee,	
High Court, Mumbai & Ors.	...Petitioner
Vs.	
Rajes Art Printers Pvt. Ltd.	...Respondents

Mr. Hasmit Trivedi a/w. Ms. Shruti Dalal i/b. M.s. Dhruve Liladhar & Co., for Applicant
Mr. Shanay Shah a/w. Mr. Abhijeet C. Mahadekar, for Defendant No.2
Mr. K.K. Trivedi, O.A. present.
Mr. E.B. Sivakumar, Deputy O.A. present.

CORAM : S.C. GUPTE, J.

DATE: 21 JANUARY 2020

P.C.:

1. This notice of motion has been taken out by third party

Applicants, who claim to be the transferees under the Insolvents, having obtained such transfer, according to them, more than two years prior to the insolvency.

2. Motion seeks recall of an order passed by this Court on 3 September 2019. By that order the Official Assignee's Report was made absolute as per prayer clauses (a), (b) and (d). The report basically sought reopening the estate account of the Insolvents. By an order passed earlier, i.e. order dated 6 April 2010, on a report of the Official Assignee [OAR No. 132/2010], the estate account was treated as closed for administrative purposes, after noting that the only cash balance after distribution of the estate of the Insolvents, which was left with the Official Assignee, was Rs.696.05 as against the proof of debts of over Rs. 17, 00,000/-.

3. By order of 3 September 2019, this Court reopened the estate by recalling the original order of closure dated 6 April 2010. The Court is informed that a suit filed by the Insolvents in respect of their property against the Applicants herein (Original Defendants to that suit) is pending adjudication and the Official Assignee has been arraigned as party in place of the Insolvents. As a result, the original order of closure of estate did call for interference. There is no infirmity, accordingly, with the order of 3 September, 2019.

4. Notice of motion is, in the premises, dismissed.

5. It is made clear that all rights and conditions of the parties, on merits, in the pending suit, are kept open; so also, the plea of the Applicants herein that the estate was purchased by them from the Insolvents more than two years prior to the insolvency, is kept open.

(S.C.GUPTE, J.)