

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY JURISDICTION

INSOLVENCY PETITION NO.03 OF 2021

Margoob Ahmed Khan

...Debtor

vs.

M/s. Singh and Others

...Petitioning Creditor

Mr. Manoj Agre i/b. Girish Kedia, for the Petitioning- Creditor.

None for judgment-Debtor.

Ms. M.P. Kunte, I.R. present.

CORAM : N. J. JAMADAR, J.

DATE : NOVEMBER 23, 2021

ORDER:

1. Heard the learned counsel for the petitioning-creditor.
2. This is a petition for adjudging the debtor insolvent under the provisions of section 13 of the Presidency-Towns Insolvency Act, 1909.
3. In the petition it is averred that Mr. Margoob Ahmed Khan, the proprietor of M/s. M.K. Enterprises, the debtor, is indebted to petitioning creditor in the sum of Rs. 24,00,000/- and owes further interest @ 18% p.a. on the principle amount of Rs. 15 lakhs, as set out in the particulars of claim, in terms of the ex parte decree dated 18th February, 2020 passed in favour of the petitioning creditor inter alia against the debtor by the Bombay City Civil Court in Summary Suit No. 1022 of 2017 in respect of admitted amount due and payable by the debtor to the petitioning creditor towards

discharge of the debt for which cheques were drawn but dishonoured on presentment. An insolvency notice, being Notice No. N/6 of 2020 dated 27th January, 2021 was issued against the debtor. It was duly served on the debtor. He has committed an act of insolvency on 20th March, 2021. The petitioner further asserts that neither the execution of ex parte decree dated 18th February, 2020 is stayed nor any execution application is pending in the City Civil Court or in any other Court in respect of the said decree nor the petitioning creditor or anybody on his behalf holds any security on the debtor's estate or any part thereof. Hence, the debtor be adjudged insolvent.

4. An affidavit of service of insolvency petition is filed. Insolvency petition seems to have been served on the debtor on 7th August, 2021.

5. None appeared for the debtor.

6. In the light of the averments in the application and the material on record in support of the petition, it becomes evident that the existence of the debt is evidenced by a copy of the decree in Summary Suit No. 1022 of 2017 passed by City Civil Court, Bombay on 18th February, 2020. The act of insolvency has been committed within three months before the presentation of the petition. The debtor has not appeared before the Court despite the service of the

petition and made an effort to satisfy the Court that he is able to pay the debt or he has not committed act of insolvency or show any other sufficient cause not to adjudge him as an insolvent. The averments in the petition thus remain un-controverted.

7. I am, therefore, satisfied that the petitioning creditor has made out a case for passing an order adjudging the debtor an insolvent. Hence, the petition is made absolute in terms of prayer clause (a) which reads as under:

*(a) As an order of adjudication may be made by
this Court against the Debtor.*

8. The petition accordingly stands allowed.

9. The properties of the insolvent wherever situated shall vest in the Official Assignee and shall become divisible among the insolvent's creditors.

10. The Official Assignee to take necessary steps to realize the assets of insolvent in accordance with the circular dated 14th October, 2011 issued by the Ministry of Finance, Department of Revenue (Central Board of Direct Taxes), New Delhi and to invest the amount so realized with any nationalized bank in accordance with rules and practice directions.

(N. J. JAMADAR, J.)