



Application No.224 of 2022 in I.N. No.4 of 2022

ABDUL QUDDHOSE, J.

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This application has been filed by the debtors to set aside the Insolvency Notice issued against them.

2.The applicants have already filed Applications to set aside the exparte decree passed by the Civil Court, which are the basis for filing of this application. The said applications are still pending before the Civil Court.

3.Pending adjudication of those applications along with this application seeking to set aside the Insolvency Notice, an additional affidavit has been filed by the applicants on 19.03.2023. The said additional affidavit is taken on record.

4.As seen from the additional affidavit, the applicants have stated that they have a good case on merits. In the suit filed by the respondent against them, an exparte decree came to be passed. They have also given an unconditional undertaking in the affidavit dated 19.03.2023 that in the event of their applications filed to set aside the exparte decree getting dismissed by the Civil Court, they unconditionally undertake to pay the entire decretal amount to the respondent. A copy of the additional affidavit dated 19.03.2023 has also been given to the learned counsel for the respondent.



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5. On instructions, learned counsel for the respondent would submit that the respondent is willing to accept the additional affidavit filed by the debtors on 19.03.2023 as stated supra.

6. Since the respondent has agreed to the unconditional undertaking given by the applicants/debtors in their additional affidavit dated 19.03.2023, nothing survives for adjudication in the Application filed by the applicants/debtors in A. No.224 of 2022 seeking to set aside the Insolvency Notice.

7. In terms of the additional affidavit dated 19.03.2023 filed by the applicants/debtors, Application No.224 of 2022 is disposed of. The additional affidavit of undertaking dated 19.03.2023 filed by the applicants/debtors shall form part of this order and the Insolvency Notice issued to the applicant in I.N. No.4 of 2022 is hereby set aside. Liberty is also granted to the respondent to file a fresh Insolvency Petition in case the applicant flouts his affidavit of undertaking dated 19.03.2023.

10.07.2023

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