

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

INSOLVENCY PETITION NO. 05 OF 2023

M/s. Jinaam Fashion World and Ors.	.. Debtors
Ex-parte	
Insta Capital Pvt. Ltd.	.. Petitioning Creditor

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Ms. K. S. Lalwani for the Petitioning Creditor.
Ms. M. R. Parkar, I. R. Present.

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CORAM : KAMAL KHATA, J.

DATED : 14th JULY 2023.

P.C. :

1. Learned Counsel for the petitioning creditor submits that the Act of insolvency committed on 22nd November, 2022.
2. It is submitted that the petitioning creditor is entitled to a sum of Rs. 44,01,159.50 ps. under a decree dated 3rd December, 2021 in Summary Suit No. 208 of 2018 passed by the City Civil Court at Bombay, with further interest on Rs. 25,00,000/- at the rate of Rs. 18% per annum from 17th March, 2022 upto realization thereon.
3. It is submitted that the Insolvency Notice No. N/09 of 2022 was issued for the recovery of Rs.44,01,159.50 ps. under the decree. The said notice was served by way of substituted service i.e. by publication on 17th October, 2022.

4. It is submitted that debtors have not complied with the Insolvency Notice and therefore they have committed an act of Insolvency on 22nd November, 2022.
5. The debtors have not taken out any Notice of Motion for setting aside the Insolvency notice and thereby failed to comply with the Insolvency Notice. Time for adopting proceedings for setting aside the Insolvency Notice expired on 21st November, 2022. The Debtors have failed to comply with the requisitions of the Insolvency Notice No. N/09 of 2022 within three months from the date of presentation of this petition.
6. It is further submitted that neither the petitioning creditor nor any person on his behalf held any security on the debtor's estate or any part thereof for the payment of the said amount due to the petitioning creditor under the decree passed. It is therefore submitted that the order of adjudication be passed.
7. In view of the aforesaid the petition is made absolute in terms of prayer clause (a) and (b).
8. Official assignee to take necessary steps in accordance with law and procedure and to invest the amounts so realized from the estate of the insolvent with any Nationalized Bank as per the circular issued by the office of the Prothonotary

and Senior Master of this Court.

9. This order of adjudication shall be served by the Advocate for Petitioning Creditor on the Judgment Debtor and shall file Affidavit of service to that effect within two weeks from today.
10. Petitioning Creditor to lodge the copy of the adjudication order with the office of the Official Assignee within two weeks from the date of this order.
11. The Judgment Debtor is directed to comply with all requisitions of Section 33 of the Presidency Towns Insolvency Act, 1909.
12. The Official Assignee is authorized to take the assistance of the local police authorities at the time of taking physical possession of the movable or immovable properties of the Judgment Debtor.
13. This order will be digitally signed by the Private Secretary / Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(KAMAL KHATA, J.)