

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

INSOLVENCY PETITION NO. 08 OF 2023

Virendra Parshotambhai Visavadiya .. Debtor
Ex-parte
Kamal R. Bulchandani and Ors. .. Petitioning Creditors

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Mr. Tanmay V. Mehta for the Petitioning Creditors.
Ms. M. R. Parkar, I. R. Present.

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CORAM : KAMAL KHATA, J.

DATED : 14th JULY 2023.

P.C. :

1. This Insolvency petition has been filed by the petitioning creditors on account of the debtor owing them a sum of Rs. 61,75,241/- (Sixty one lacs seventy five thousand two forty one only) as on 15th March 2022. This amount due comprises of the decretal amount of ₹ 52,71,000/- obtained in the summary suit filed in the Bombay City Civil Court, Bombay, and interest on the principal sum of ₹ 24,00,000/- at 18% p.a. is due from 10th February 2020 till 15th March 2022. In addition to the claim the petitioning creditors are entitled to further interest at the rate of 18% on the principal amount of ₹ 24,00,000/- from 16th March, 2022 till payment or realization.

2. The learned counsel submitted that by a notice dated 1st February 2022 the Advocates of the Petitioning Creditor called upon the judgement debtors to pay the decretal amount within one month of the receipt of the notice. On failure to pay the decretal amount, the Petitioning Creditors filed insolvency proceedings and got the Insolvency Notice No. N/11 of 2022 dated 21st July, 2022 issued on the judgement debtors by speed post, which the debtor duly received on 26th July, 2022. on their last known addresses.

3. It is stated that by an order dated 21st October 2022 this Court permitted issuance of notice by substituted service as permitted in law i.e. by affixing the Insolvency Notice on the Notice Board of this Court, affixing the notice on the last known address and publishing the notice in two local newspapers.

4. It is submitted that in response to the Insolvency Notice affixed on the premises at B/56, Lotus Court, Opp. Chanakya Nagari, Kalali, Vadodara, Gujarat - 390 012, being the last known address of the judgement debtors, a letter dated 4th January, 2023 was received from M/s. Little & Co., Advocates on behalf Mr. Bhadresh J. Jhaveri, Gujarat. By the said letter, the advocates have recorded that the debtor is neither residing nor carrying on

business at the said address. It was further recorded that the Insolvency Notice dated 21st July, 2022 that was served with the aforesaid address, cannot be served or accepted as it is not the address of their client, therefore the said original notice was returned.

5. It is submitted that the Insolvency notice stands duly served and an Affidavit of service is filed on 6th June 2023 and 26th July 2023. Further, an affidavit of service dated 26th June, 2023 pursuant to the order dated 9th June, 2023 to publish the Insolvency Petition in two local newspapers is also filed.

6. It is submitted that neither the execution of the decree is stayed, nor any execution application is pending in the Hon'ble High Court or any other Court with regard to the decree dated 10th November, 2021.

7. It is submitted that neither the Petitioning Creditors, nor anyone on their behalf hold any security on the debtor's estate or any part thereof.

8. It is further submitted that the debtor had committed an act of insolvency after 35 days from the date of service of the

Insolvency Notice on 26th November, 2022 that expired on 1st January, 2023. It is submitted that this petition is filed within 90 days from the act of insolvency. The learned Counsel, accordingly, submits that having complied with all the requirements under the Insolvency Act, an order of adjudication be passed against the judgment debtor.

9. I have perused all the papers and proceedings and am satisfied that the procedure is complied with and there is no impediment in passing the order of adjudication against the judgment debtors. In view of the aforesaid, the petition is made absolute in terms of prayer clause (a) with further costs.

10. 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.

11. 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.

12. The Judgment Debtor is directed to comply with all requisitions of Section 33 of the Presidency Towns Insolvency Act, 1909.

13. 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.

14. 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.

15. 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.)