

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

INSOLVENCY PETITION NO. 6 OF 2022

Insta Capital Pvt. Ltd.
Creditor

.. Petitioning

v/s.

Satishkumar Datwani and Anr.

.. Judgment Debtors

...

Mrs. K. S. Lalwani for the Petitioning Creditor.

Mrs. M. R. Parkar, I. R.

...

CORAM : KAMAL KHATA, J.

DATED : 9TH JUNE 2023.

P.C. :

1. This petition is filed for seeking an order of adjudication against the Judgment Debtors.
2. None appears for the Judgment Debtors today.
3. Affidavit of proof of service dated 19th April 2023 that is on record evinces due service.
4. Learned counsel for the Petitioning Creditor states that pursuant to an Ex-parte decree passed in favour of the Petitioning Creditor in the sum of Rs.18,82,677.50/-, an Insolvency Notice was served upon the Debtor Nos.1 and 2 by substituted service (i.e. by publication) on 29th July, 2022.
5. The time to comply with the said Insolvency Notice expired on 2nd September 2022.

6. The Debtors Nos.1 and 2 though served on 28th July 2022 have not taken out any Notice of Motion for setting aside the Insolvency Notice.

7. It is submitted that having not complied with the Insolvency Notice the Debtors Nos.1 and 2 have committed an act of insolvency on 3rd September 2022.

8. It is submitted that neither the Petitioning Creditor nor any person on his behalf holds or has held any security of the Debtor's estate or any part thereof, for the payment of decretal amount due to the Petitioning Creditor under the Decree passed against the Debtors.

9. It is submitted that, more than 9 months have passed and no reply has been filed.

10. Petition accordingly, is allowed in terms of prayer clauses (a), (b) and (c) and disposed of.

11. The 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.

12. This order of adjudication shall be served by the Advocate for Petitioning Creditor on the Judgment Debtors and he shall file Affidavit of service to that effect within two weeks from today.

13. 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.

14. The Judgment Debtors are directed to comply with all requisitions of Section 33 of the Presidency Towns Insolvency Act, 1909.

15. 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 Debtors.

16. 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.)