

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

RULE NISI NO. 7 OF 2024

IN

INSOLVENCY PETITION NO. 101 OF 2006

Re :

Chetan Dhanomal Bablani and others ... Insolvents

Ex-parte :

M/s. Sicom Ltd. ... Petitioning Creditor

And

The Official Assignee of
Bombay High Court, Bombay

WITH

NOTICE OF MOTION NO. 5 OF 2024

IN

INSOLVENCY PETITION NO. 101 OF 2006

Rajesh Dayaldas Narwani ... Applicant

In the matter between :

Sicom Ltd. ... Petitioner

Versus

Chetan Dhanomal Bablani and others ... Respondents

Mr. Yogesh Bhoge instructed by Ms. Sana Khan, Advocate for the
Petitioning Creditor.

Mr. Anand Mishra instructed by Mr. Ashok Saraogi, Advocate for the Applicant in NMIS-5-2024.

Ms. Shivanjali M. Mane, Advocate for the Insolvent No.3.

Mr. Mayank Bagla with Mr. Hiten Lal, Advocate for Insolvent No.2.

Ms. C.J. Bhatt, Official Assignee alongwith Mr. Subodh Patil, Deputy Official Assignee, Mr. D.B. Iswalkar, 1st Assistant Official Assignee and Ms. M.R. Parkar, Insolvency Registrar, present.

Mr. Mahesh D. Bablani, Insolvent No.2, present in-person.

Mr. Kanyalal D. Bablani, Insolvent No.3, present in-person.

CORAM : ABHAY AHUJA, J.
DATE : 15 OCTOBER 2024

PC. :

Rule Nisi No.7 of 2024 :

1. Pursuant to the earlier orders of this Court, today when the matter is called out, Ms. Mane appears for the Insolvent No.3 and on instructions from Respondent No.3, who is present in Court, submits that Rule Nisi may be discharged with the usual undertaking to attend before this Court as well as before the Official Assignee, as and when called. The statement is accepted. The Insolvent No.3 is discharged with the aforesaid undertaking.

2. As far as the Insolvent No.1 is concerned, this Court is informed that although the Insolvent No.1 is not present in Court, however, he has filed an Affidavit and one Advocate Daksha Parmar has filed Vakalatnama on his behalf. However, none is present for Insolvent No.1 and accordingly, insolvency notice cannot be discharged at this stage. Let Insolvent No.1 be remained present in Court on the next date.

Notice of Motion No.5 of 2024 :

3. This Notice of Motion seeks direction to the Office of the Official Assignee to investigate that the transfer with respect to Shop

No.12 situated at Building known as Vijay Apartment Co-operative Housing Society Ltd., Old Agra Road, Opposite Teen Petrol Pump, Thane West, submitting that the Respondent No.3 who is the Insolvent No.3 is continuing the proceedings before the Courts without disclosing the same to the Official Assignee and subject to the outcome of the same, necessary action be initiated by this Court.

4. The Official Assignee has submitted that since the Insolvent No.3 is attending to the proceedings before the Official Assignee and has also undertaken to do so in future, nothing survives in this Notice of Motion.

5. Mr. Bhoge, learned Counsel appearing for the Petitioning Creditor also submits that it is not for the Official Assignee to investigate and decide the title of the Applicant. The learned Counsel for the Petitioning Creditor submits that with respect to the tenancy rights of the Applicant in the Notice of Motion, an order dated 17th October 2014 has already been passed by the 3rd Joint Civil Judge, Senior Division, Thane, dismissing the suit filed by the Applicant against which admittedly the Applicant has already filed an Appeal, which is pending adjudication. That accordingly, this Court may dismiss the Notice of Motion if the Applicant is not willing to withdraw the same.

6. Mr. Mishra, learned Counsel appearing for the Applicant would submit that since the entire process of issuance of Rule Nisi has been pursuant to this Notice of Motion, this Notice of Motion be kept pending, so that the Applicant can assist this Court as well as the Official Assignee in the matter and seeks to file rejoinder to the Affidavits in reply filed in the Notice of Motion.
7. Let Affidavit in Rejoinder be filed within a period of two weeks, with a copy to the other side.
8. List on **17th December 2024**.
9. It is made clear that if no Affidavit in Rejoinder is filed by the next date, this Court will consider dismissing the Notice of Motion.

(ABHAY AHUJA, J.)