

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS INSOLVENCY JURISDICTION**

**RULE NISI NO.9 OF 2019
IN
INSOLVENCY PETITION NO.95 OF 2001**

**M/S. LAKHOTIA UDYOG)..PETITIONING CREDITOR
V/s.**

RAJESH MANMOHANDAS SHAH & ORS.)...INSOLVENTS

Mr.Anil Bagwe, Advocate for the Petitioning Creditor.

Mr.Mehul Shah, Advocate for the Applicant in NMIS/6/2024.

Mr.Y.S.Bhate, Advocate for the Intervenor/Purchaser.

Ms.C.J.Bhatt, Official Assignee a/w. Mr.Arun Kesarkar, Deputy Official Assignee and Mr.Subodh Patil, 1st Assistant Official Assignee, present in Court.

Ms.M.R.Parkar, Insolvency Registrar, present in Court.

Mr.Shekhar Ashok Pawar, Police Sub-Inspector, Juhu Police Station, present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 16th APRIL 2024

PC. :

1. Pursuant to order dated 5th March 2024, today, when the matter is called out, Mr.Shekhar Ashok Pawar, Police Sub-Inspector, Juhu Police Station, is present in Court and tenders across the bar report

dated 16th April 2024 setting out in detail the efforts made by the Police Department in locating and arresting the Insolvent no.1 Mr.Rajesh Shah, which, however, could not fructify, and that, the police have not been able to trace him, and therefore, he could not be arrested and produced before this Court in execution of the non-bailable warrant that was issued against him. The said report is taken on record.

2. It is observed with great concern that despite a detailed report setting out the efforts put in by the police authorities including tracking of call data records, the Insolvent no.1 could not be traced and arrested and produced to secure his presence before this Court in execution of the non-bailable warrant. This is the state of affairs.

3. Accordingly, left with no choice, this Court is constrained to direct the Deputy Commissioner of Police of the region, where the Insolvent no.1 was last known to reside/carry on business, to execute the non-bailable as standing warrant against the Insolvent no.1 and secure his presence in Court by the next date.

4. The Deputy Commissioner may also have a Look Our Circular issued against the Insolvent no.1, so as to ensure that he does not leave

the country and frustrate the efforts and to arrest him wherever found, whenever found.

5. List on 18th June 2024.

OFFICIAL ASSIGNEE'S REPORT NO. 21 OF 2023

6. Pursuant to earlier orders of this Court, a Valuer had been appointed in respect of Gala No.23 situate at J.K.Industrial Estate, Off. Mahakali Caves Road, Behind Holy Family High School, Andheri (East), Mumbai – 400 093, belonging to the Insolvent no.1 and his wife. The Valuer has submitted his report in a sealed cover. Under directions of this Court, the sealed cover is opened. The Valuer's report is perused and after perusing, the same is again placed in the sealed cover.

7. In accordance with directions sought in Official Assignee's Report No.21 of 2023, this Court allows the Official Assignee to sell the said gala no.23 by public auction, to recover 50% of the Insolvent's share for the benefit of the creditors, and thereafter, to pay the balance 50% to his wife, in accordance with Prayer clauses (b) and (d) of the Official Assignee's Report, which read thus :

“(b) The Official Assignee may be permitted to sell the said gala premises no.23 by public auction or private treaty to

recover 50% share of the Insolvent no.1 for the benefit of general Creditors of the Insolvent.

(d) If the prayer (b) & (c) is in affirmative, the Official Assignee may be permitted to pay balance 50% sale amount to Smt.Minal R. Shah, one of the Partner of M/s.Geetanjali Exports as her share.”

8. The Official Assignee's Report is allowed in accordance with Prayer clauses (b) and (d) and accordingly stands disposed.

9. Let the learned Official Assignee, after a meeting with the Petitioning creditor and the Insolvent, finalize the auction schedule and the terms and conditions of the auction for the sale of the property.

10. For finalization of the auction schedule, list on **18th June 2024**.

NOTICE OF MOTION NO. 6 OF 2024

11. This Notice of Motion seeks recall/setting aside of order dated 23rd June 2023 passed in Official Assignee's Report No.1 of 2023 with respect to Gala no.18 in J.K.Industrial Estate, Off. Mahakali Caves Road, Behind Holy Family High School, Andheri (East), Mumbai – 400 093.

12. The pleadings are complete. The matter has been briefly heard. However, after some time, Mr.Shah, learned Counsel for the Applicant, who is the ex-partner of the Insolvent's partnership firm, seeks some time to take instructions in the matter. At his request, list on **30th April 2024**.

13. It is made clear that there is no ad-interim relief granted in the matter and the learned Official Assignee to take steps towards auction of Gala no.18.

(ABHAY AHUJA, J.)