

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS INSOLVENCY

NOTICE OF MOTION NO. 9 OF 2024

IN

INSOLVENCY PETITION NO. 35 OF 2018

Nilesh alias Nikki Kedia

... Applicant

Versus

Rakesh Kedia (Own Petition)

... Respondent

WITH

OFFICIAL ASSIGNEE'S REPORT NO. 1 OF 2024

IN

INSOLVENCY PETITION NO. 35 OF 2018

Re :

Rakesh Kedia (Own Petition)

... Insolvent

Mr. Y.S. Bhate, Advocate for the Applicant in NMIS-9-2024.
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. Rakesh Kedia, present in-person.

CORAM : ABHAY AHUJA, J.
DATE : 19 NOVEMBER 2024

P.C. :

1. This Notice of Motion has been filed on behalf of Mr. Nilesh Kedia as the 50% owner of Flat No.603, 6th Floor, Building No.1, Malad Panchavati CHSL, Raheja Township, Laxman Das Raheja Marg, Malad

(East), Mumbai – 400 097, seeking setting aside of the valuation report dated 28th February 2024, which was submitted by M/s. Neelam Arch, Valuer appointed by this Court by order dated 16th January 2024.

2. Mr. Bhate, learned Counsel appearing for the Applicant would submit that despite a copy of the Agreement for Sale dated 7th December 2023 with respect to Flat No.404 in the same building being provided to the Architect prior to the Valuation Report dated 28th February 2024 and information that the said building has been declared as a dilapidated building in C2-B category under Section 354 of the Mumbai Municipal Corporation Act, 1888 by a communication dated 1st November 2023 by the Mumbai Municipal Corporation, none of this has been considered in the Valuation Report. Mr. Bhate has drawn the attention of this Court to paragraph 4 and grounds No.B-2 and B-4 of the Affidavit in support of the Notice of Motion in support of his contentions.

3. The learned Official Assignee has also tendered across the bar two indices II in support of two other flats, viz. Flats No.403 and 601 in the same building, of transactions in respect thereof effected by documents dated 28th June 2023 and 17th August 2023 respectively, submitting that the said two transactions have been effected at Rs.96 Lakhs and Rs.90 Lakhs respectively, which is close to the fair market

value of Rs.95,28,120/- computed by the Valuer appointed by this Court in respect of Flat No.603.

4. A perusal of the report dated 28th February 2024 furnished by the Valuer in respect of Flat No.603, 6th Floor, Building No.1, Malad Panchavati CHSL, Raheja Township, Laxman Das Raheja Marg, Malad (East), Mumbai – 400 097, although clearly indicates in Clauses IV(2) and in VI(3) with respect to the subject building in respect of future life that the Valuer appointed by this Court has clearly considered that the building is 37 years old and the balance anticipated life will be about 23 years provided structural repairs in the future are carried out when required and periodical maintenance is carried out in future, however, the exact categorization as mentioned in the Mumbai Municipal Corporation's communication dated 1st November 2023 does not seem to have been mentioned nor it appears that the copy of the Agreement dated 7th December 2023 with respect to the transaction in respect of Flat No.404 in the said building has been considered.

5. Having heard the learned Counsel and having considered their submissions, this Court is of the view that the Architect who is appointed by this Court, viz. M/s. Neelam Arch, who is on the panel of the Official Assignee and this Court be directed to furnish an additional report/clarification after considering the Agreement for Sale dated 7th

December 2023 with respect to the Flat No.404 as well as the two indices II furnished across the bar by the learned Official Assignee with respect to the Flats No.403 and 601 in the said building. Although the Valuer has considered the balance anticipated life of the building to be about 23 years provided structural repairs required to be carried out, the Valuer also to consider the communication dated 1st November 2023 from the Mumbai Municipal Corporation to the Society, whereby the condition of the building has been categorized as dilapidated C2-B category under Section 354 of Mumbai Municipal Corporation Act, 1888 requiring structural repairs without eviction.

6. Let the said additional report/clarification be furnished with respect to the Valuation Report dated 28th February 2024, within a period of four weeks. Let the concerned parties co-operate with the Valuer.

7. Notice of Motion accordingly stands disposed in the above terms.

8. List the Official Assignee's Report No.1 of 2024 on **21st January 2025**, which will be considered after the additional report/clarification by the Valuer.

(ABHAY AHUJA, J.)