

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

**NOTICE OF MOTION (L) NO. 31506 OF 2023
IN
INSOLVENCY PETITION NO. 10 OF 2023**

SMFG India Home Finance Co. Ltd.	...Applicant
<u>In the matter between</u>	
Naresh Manekchand Agarwal and Anr.	...Petitioning Creditor
V/s.	
Rahul Vipanchander Aggarwal	...Debtor

**WITH
OFFICIAL ASSIGNEE'S REPORT NO. 6 OF 2024
AND
NOTICE OF MOTION (L) NO. 14696 OF 2024**

Mr. Deshmukh (through VC) with Ms. Bijal Gogri i/b O. M. Gujar Law Chambers for Intervenor.
Mr. Sumin Khanna i/b Dewani Associates for the Insolvent.
Ms. C. J. Bhatt, Official Assignee with Mr. Subodh Patil, Dy. Official Assignee present.
Ms. M. R. Parkar, Insolvency Registrar present.
Mr. Rahul Aggarwal, Insolvent in person present.

CORAM	:	ABHAY AHUJA, J.
DATE	:	20th AUGUST, 2024

P.C. :

1. Pursuant to the earlier order dated 18th June, 2024, today when the matter is called out, Mr. Deshmukh, learned Counsel appears for the Applicant-Secured Creditor and submits that earlier auction with respect to the said flats as referred to in order dated 18th June, 2024,

did not materialise and therefore, the process of re-auction had to be undertaken, and the auction is now scheduled on 29th August, 2024.

2. Mr. Deshmukh submits that after the re-auction process is concluded, after appropriating the outstanding dues along with interest, costs and legal expenses, the balance would be deposited with the office of the Official Assignee for the benefit of the general body of Creditors.

3. Mr. Khanna, learned Counsel appears for the Insolvent and also points out that there is an Official Assignee's Report No. 6 of 2024 which seeks to sell flat premises No. 801 situated at B Wing, Jay Jardin, Off Ghatla Village Road, Near Ratna Star Village Borla, Chembur, Mumbai- 400 071, standing in the name of the Insolvent jointly with his wife Sunita Rahul Aggarwal, by public auction or private treaty to recover 50% share of the Insolvent for the benefit of general body of Creditors.

4. Learned Official Assignee submits that, therefore, first, the valuer from the panel of the Prothonotary and senior Master would have to be appointed to value the said premises No. 801.

5. Mr. Deshmukh, learned Counsel appearing for the Secured Creditor has no objection if the Official Assignee is permitted to sell the said flat premises No. 801 standing in the name of the Insolvent jointly with his wife, so that 50% share of the Insolvent can be appropriated for the benefit of the general body of the Creditors of the Insolvent, however, submitting that the Secured Creditor may be permitted to lodge claim with the Official Assignee in the event the re-auction does not fetch the Secured Creditor the entire claim of the secured debts.

6. I have heard the learned Counsel and the learned Official Assignee and considered the Official Assignee's Report and I am of the view that subject to the aforesaid rights of the Secured Creditor, the said report be allowed in terms of the prayer Clauses (a) to (c), which are quoted thus:-

“(a) the Official Assignee may be permitted to sell the said Flat Premises No. 801, standing in the name of the Insolvent abovenamed jointly with his wife Sunita Rahul Aggarwal, situated at B-Wing, Jay Jardin, Off Ghatla Village Road, Near Ratna Star Village Borla, Chembur, Mumbai – 400 071 by public auction or private treaty to recover 50% share of the Insolvent for the benefit of general Creditors of the Insolvent.

(b) if the prayer (a) is in affirmative, the Official Assignee may be permitted to appoint valuer from the panel of the Office of the Prothonotary and Senior Master for valuation of the said Flat Premises No. 801 and valuation charges may be recovered from the Petitioning Creditor.

(c) If the prayer (a) & (b) is in affirmative, the Official Assignee may be permitted to pay balance 50% sale proceeds amount of Sunita Rahul Aggarwal, being wife of the Insolvent, the Joint Owner of the said Flat Premises No. 801.”

7. Let the Secured Creditor hand over the title deeds of the said flat premises No. 801 to the Official Assignee within a period of one week.

8. Let the valuation exercise of the said flat premises No. 801 be carried out by M/s Neelam Arch, the valuer from the panel of this Court, having address at 202, Kamar Mention, Central Wing, Sant Janabai Marg, Vile Parle (E), Mumbai-400057, Tel. No.:- 65278360.

8. Let the valuation exercise be carried out within a period of 12 weeks and report be submitted by the next date.

9. The Petitioning Creditor is directed to deposit Rs. 50,000/- with the Official Assignee with respect to the valuation charges of Valuer Neelam Arch.

10. The Official Assignee's Report No. 6 of 2024 and Notice of Motion No. 14696 of 2024 to accordingly stand disposed.

(ABHAY AHUJA, J.)