

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN ITS INSOLVENCY

OFFICIAL ASSIGNEE'S REPORT NO. 10 OF 2024

IN

NOTICE OF MOTION (L) NO. 14696 OF 2024

AND

OFFICIAL ASSIGNEE'S REPORT NO. 6 OF 2024

IN

INSOLVENCY PETITION NO. 10 OF 2023

Re :

Rahul Vipanchander Aggarwal

... Insolvent

Ex-parte :

Naresh Manekchand Aggarwal

(since deceased) Legal representatives :

Ms. Kavita Agarwal and others

... Petitioning Creditors

WITH

NOTICE OF MOTION (L) NO. 27418 OF 2024

IN

INSOLVENCY PETITION NO. 10 OF 2023

Mr. Girish Kedia alongwith Mr. Krishang Kedia and Ms. Ujawala Karpe,
Advocates for the Petitioning Creditors.

Ms. Bijal Gogri instructed by O.M. Gujar Law Chambers, Advocate for the Applicant in NMISL-27418-2024.

Mr. Sumit Khanna instructed by Dewani Associate, Advocate for the Insolvent.

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.

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

PC. :

1. Pursuant to the earlier orders of this Court ending with order dated 28th August 2024, today when the matter is called out, Ms. Gogri, learned Counsel appears for SMFG India Home Finance Co. Ltd. and submits that the two flats viz. Flats No.901 and 902 have been sold and the amounts due to the said Non-Bank Finance Company have been recovered except a sum of Rs.24,077.64/- being the current outstanding as on 18th November 2024 and a sum of Rs.7,27,976/- being the legal charges including paper publication charges and other clerical charges totalling to Rs.7,52,053.64/- as on 18th November 2024. Ms. Gogri would submit that once such payment is received, Flat No.801 on 8th Floor, Le Jardin Building, Off. Ghatla Village Road, Borla Village, Sion Trombay Road, Chembur, Mumbai – 400 071 (the **“Flat No.801”**) can be sold by the learned Official Assignee.

2. Mr. Kedia, learned Counsel appearing for the Petitioning Creditors would submit that the outstanding to the Petitioning Creditors as on date is more than Rs.2,52,00,000/- and that this Court expedite the auction sale of Flat No.801, so that the amounts due to the Petitioning Creditors can be recovered. Mr. Kedia also fairly submits

that once the Flat No.801 is sold, before the proceeds belonging to the Insolvent are distributed, the amount of Rs.7,52,053.64/- outstanding as on 18th November 2024 can be paid in priority to the Non-Banking Finance Company.

3. The learned Official Assignee informs this Court that although the proposed auction schedule is ready, however, since the Non-Banking Finance Company has not yet handed over the originals of Flat No.801 as directed by this Court, the date of inspection cannot be filled in the proposed auction schedule as any public notice of the same would entail inspection of not only the premises but also the original documents.

4. In view of the above submissions, this Court has requested the learned Official Assignee to open the Valuation Report with respect to the Flat No.801. The sealed cover is opened, the report is perused and directed to be placed again in a cover which is resealed.

5. Having heard the learned Counsel for the Official Assignee and having considered their submissions, the following order is passed :

(i) Let the SMFG India Home Finance Co. Ltd. handover the original documents with respect to the Flat No.801 to the Official Assignee within a period of one week, it being

understood that the outstanding amount of the loan as well as the legal charges stated above would be paid to SMFG India Home Finance Co. Ltd. in priority before the disbursement of the amounts recovered after auction of the Flat No.801.

(ii) Let the Official Assignee take physical possession of the Flat No.801 within a period of one week.

(iii) Let the Official Assignee place before this Court duly completed proposed schedule of auction with respect to Flat No.801 on the next date, with a copy to the others.

6. List on **3rd December 2024**, for approving the auction schedule.

(ABHAY AHUJA, J.)