

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

INSOLVENCY PETITION NO. 8 OF 2024

Re: Lipeeka Parulekar & Anr.

...Debtors

Ex-Parte: Rajesh Nandlal Sahjwani

...Petitioning Creditor

Ms. Kavita Lalwani for the substituted Petitioning Creditor.

Ms. Rekha Rane, Insolvency Registrar present.

**CORAM : ABHAY AHUJA, J.
DATE : 6th MAY 2025**

PC. :

1. This Insolvency Petition seeks to adjudicate the Judgment Debtors viz. Mrs. Lipeeka Parulekar and Mr. Nitin Parulekar as Insolvents.

2. Earlier in Commercial Summary Suit No. 117 of 2022, the City Civil Court at Bombay passed an ex-parte decree dated 17th December, 2022 for a sum of Rs. 15,00,000/- along with interest at the rate of 12% per annum from 12th February, 2024, till payments as per the particulars of claim.

3. Since no payment had been received under the said decree, at the instance of the Judgment Debtors/Petitioning Creditor, Insolvency Notice No.N/2 of 2024 dated 22nd February, 2024 for recovery of Rs.

22,58,592.50 was issued against the Debtors. That the Insolvency Notice was served by personal service upon the Debtor No.2 on 13th March, 2024 and upon the Debtor No.1 on 20th March, 2024.

4. Ms. Lalwani would submit that the Debtors have not complied with the Insolvency Notice and therefore, the Debtor No.2 has committed an act of insolvency on 18th April, 2024 and the Debtor No.1 has committed an act of insolvency on 24th April, 2024.

5. Ms. Lalwani submits that despite service of notices, the Debtors have not taken out any Notice of Motion for setting aside the Insolvency Notice and nor have satisfied the Decree and have, therefore, failed to comply with the Insolvency Notice. That the time to comply with the said Insolvency Notice and for adopting the proceedings for setting aside the Insolvency Notice for Debtor No.2 has expired on 17th April, 2024 and for Debtor No.1 on 24th April, 2024. That the Debtors, within three months prior to the date of the presentation of the Petition, have committed acts of insolvency by failing to comply with the requisitions of the Insolvency Notice.

6. Ms. Lalwani would, therefore submit that the Petition be allowed and the two Debtors be adjudicated as Insolvents.

7. I have heard Mrs. Lalwani, learned Counsel for the Petitioning Creditor.

8. A perusal of the service report indicates that the Petition has been served by hand delivery on 16th July, 2024, however, despite service none appears for the Judgment Debtors. The act of insolvency has clearly been committed on 18th April, 2024 by the Debtor No.2 and by Debtor No.1 on 25th April, 2024. No Notice of Motion to set aside the Insolvency Notice has been filed or pending. The requisitions in the notice have also been failed to be complied with, leading to the act of insolvency.

9. The Judgment Debtors having committed an act of insolvency within three months prior to the date of the presentation of this Petition by not complying with the Insolvency Notice No. N/2 of 2024, nor the decree having been satisfied by payment to the Petitioning Creditor under the said Insolvency Notice within the statutory period of 35 days or any time nor any proceeding to set aside the Insolvency Notice having been filed, I am of the view that the Insolvency Petition deserves to be allowed in terms of the prayer Clause 7 (a), which reads thus:-

“7.(a) that this Honourable Court may be pleased to pass an order of adjudication against the Debtors abovenamed.”

10. It is submitted that the Petitioning Creditor nor any person on her behalf holds or has held any security of the Judgment Debtors' estate or any part thereof for the payment of decretal amounts due to the Petitioning Creditor under the judgment and decree dated 18th April, 2023 passed against the Judgment Debtors.

11. The Official Assignee to take necessary steps in accordance with law and procedure and to invest the amounts so realized from the estate of the Insolvents with any nationalized Bank as per the circular issued by the office of the Prothonotary & Senior Master of this Court.

12. The Petitioning Creditor to lodge the copy of the adjudication order with the office of the Official Assignee within two weeks from the date of this order.

13. The Insolvents are directed to comply with all requisitions under Section 33 of the Presidency Towns Insolvency Act, 1909.

14. The Official Assignee is authorized to take assistance of the local police authorities at the time of taking physical possession of the immovable property of the Insolvents.

15. The Insolvency Petition, accordingly, stands allowed and disposed as above.

(ABHAY AHUJA, J.)

Digitally
signed by
NIKITA
YOGESH
GADGIL
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