

under the said decree at the instance of the Petitioning creditor, Insolvency Notice No.N/20 of 2023 dated 7th December 2023 for recovery of Rs.11,63,402.69 due and payable under the decree was issued against the two Judgment Debtors. The Insolvency Notice was served upon the Judgment Debtors no.1 and 2 on 14th March 2024 and also by substituted service by publication on 14th March 2024. It is submitted that the Judgment Debtors have not complied with the Insolvency Notice and therefore, have committed an act of insolvency on 19th April 2024.

3. Ms.Lalwani, learned Counsel for the Petitioning creditor, submits that although the service had been effected on 14th March 2024, no Notice of Motion had been taken out for setting aside the Insolvency Notice nor any payments have been made. That, the time to comply with the Insolvency Notice and for adopting the proceedings for setting aside the Insolvency Notice has expired on 18th April 2024. Accordingly, the act of insolvency has been committed on 19th April 2024.

4. Ms.Lalwani has submitted that the Insolvency Petition has been served personally through bailiff of the Sheriff's office.

5. On 20th August 2024, the following order was passed :

“1. Ms.Lalwani, learned Counsel, appears for the Petitioning creditor and submits that the Judgment debtors have been served through the Sheriff of Bombay on 16th July 2024 and both the Judgment debtors have personally accepted the said service and that this Court, therefore, make the Petition absolute as none appears.

*2. As and by way of last chance for the Judgment debtors to appear in the matter, list on **3rd September 2024.**”*

6. Despite last chance having been granted to the two Judgment Debtors, none appears for the two Judgment Debtors though served.

7. The Judgment Debtors no.1 and 2 have committed an act of insolvency within the three months prior to the date of presentation of this Petition by not complying with the requisitions of the Insolvency Notice No.N/20 of 2023 nor have paid any amount to the Petitioning creditor under the said Insolvency Notice within the statutory period of 35 days or at any time.

8. It is submitted that the Petitioning Creditor nor any person on its 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 6th June 2023 passed against the Judgment Debtors.

9. In view of the above discussion, an act of insolvency having been committed, I am inclined to allow the Insolvency Petition in terms of prayer clause (a), which reads thus :

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

10. 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.

11. 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.

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

13. 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 Judgment Debtors.

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

(ABHAY AHUJA, J.)

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