

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

INSOLVENCY PETITION NO. 11 OF 2024

RAHUL LEEKHA AND OTHERS)...DEBTORS

EX-PARTE : RAHUL RAJKUMAR BAJAJ)..PETITIONING CREDITOR

Ms.Kavita Lalwani, Advocate for the Petitioning creditor.

None for the Judgment Debtors.

Ms.M.R.Parkar, Insolvency Registrar, present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 4th FEBRUARY 2025

P.C. :

1. This Insolvency Petition seeks to adjudicate the Judgment Debtor No.1 viz. Rahul Leekha, Judgment No.2 viz. Prerna Leekha and Judgment Debtor No.3 viz. Rohini Leekha as Insolvents.

2. Ms.Lalwani, learned Counsel for the Petitioning creditor, submits that earlier today in Insolvency Petition No.10 of 2024, this Court has adjudicated Judgment Debtor no.1 and Judgment Debtor no.2 as Insolvents and that since no payment had been made in response to the Insolvency Notice No.N/21 of 2023 dated 5th December 2023, this Court may, in these proceedings as well, declare the Judgment Debtors no.1, 2 and 3 as Insolvents.

3. Earlier in Summary Suit No.691 of 2023 filed by the Petitioning creditor against the three Judgment Debtors, the Bombay City Civil Court at Bombay had decreed the Suit on 5th October 2023 for Rs.9,96,486.97 with further interest at the rate of 9% per annum on Rs.8,75,000/- to be paid from 6th December 2023 till payment as per the particulars of claim annexed to the plaint.

4. It is submitted that the said *ex-parte* decree was directed against all the three Judgment Debtors. Thereafter, since the decree was not satisfied, at the instance of the Petitioning creditor, Insolvency Notice No.N/21 of 2023 dated 5th December 2023 was issued and served upon the three Judgment Debtors by substituted service on 14th March 2024. It is submitted that since the three Judgment Debtors had not taken any steps for setting aside the said Insolvency Notice within the stipulated time of 35 days which ended on 18th April 2024, the three Judgment Debtors have committed an act of insolvency on 19th April 2024.

5. Ms.Lalwani would submit that the act of insolvency had been committed within the period of three months prior to the date of presentation of the Petition viz. on 19th April 2024, failing to comply with the requisitions of the Insolvency Notice No.N/21 of 2023.

Ms.Lalwani would submit that the Insolvency Petition had been served upon the Judgment Debtors no.1 and 2 on 16th July 2024 and since the Judgment Debtor no.3 could not be served by ordinary mode, the Judgment Debtor no.3 had been served by substituted service on 3rd October 2024 by affixing the certified copy of the Insolvency Petition along with affidavit in support on the outer door of the premises of the Judgment Debtor no.3, by sending certified copy of the Insolvency Petition along with affidavit in support by Registered Post A.D. and Ordinary post and also by publishing the extract of the certified copy of the Insolvency Petition in two local newspapers viz. Free Press Journal in English and Hamara Mahanagar in Hindi. Ms.Lalwani would submit that certified copy of the Insolvency Petition along with affidavit in support has also been affixed on the notice board of this Court. Ms.Lalwani submits that the affidavit of service containing the bailiff's report is dated 1st August 2024.

6. Ms.Lalwani, accordingly, submits that the Insolvency Petition be allowed and not only the Judgment Debtors no.1 and 2, who have already been adjudicated as Insolvents, be declared Insolvents in this Petition as well, but also the Judgment Debtor no.3 be adjudicated as an Insolvent.

7. It is not in dispute that the requisitions in the Insolvency Notice have not been complied with nor any payment has been made within the period stipulated therein nor any application for setting aside the Insolvency Notice has been instituted within the stipulated period or at any time as per the proceedings before this Court. The Judgment Debtors no.1 and 2 have already been adjudicated as Insolvents in Insolvency Petition No.10 of 2024 and the Judgment Debtor no.3, against whom the decree dated 5th October 2023 has also been passed, has also failed to comply with the requisitions of the Insolvency Notice nor is there any proceeding adopted to set aside the Insolvency Notice. The act of insolvency has been committed on 19th April 2024. None appears for the Judgment Debtors despite service.

8. It is submitted that the Petitioning Creditor nor any person on his 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 5th October 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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