

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

INSOLVENCY PETITION NO.16 OF 2024

RE : YAMINI RAO AND ANOTHER)...DEBTORS

EXPARTE

NANDLAL BALKISHIN SAHJWANI)...PETITIONING CREDITOR

Ms.Kavita Lalwani, Advocate for the Petitioning Creditor.

Ms.R.V. Rane, Insolvency Registrar, present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 7th MAY 2025

P.C. :

1. This Insolvency Petition seeks to adjudicate the Judgment Debtor No.2 Yamini Rao and Judgment Debtor No.3 Vinaykumar Ramnivas Pandey as Insolvents.

2. Earlier in Summary Suit No.345 of 2022, the Bombay City Civil Court granted decree of Rs.19,89,466.06 on 21st February 2023 along with further interest on Rs.15,25,000/- at the rate of 12% per annum from 7th February 2024 till payment as per particulars of claim jointly and severally against the Judgment Debtor No.2 Yamini Rao and

Judgment Debtor No.3 Vinaykumar Ramnivas Pandey as well as a company by the name Rao Edu Solutions Private Limited. Since no payment had been received under the said decree, at the instance of the Judgment Creditor / Petitioning Creditor, Insolvency Notice No. N/1 of 2024 dated 22nd February 2024 for recovery of Rs.19,89,466.06 ps. due and payable under the decree was issued and served upon the two Judgment Debtors by a substituted service on 22nd July 2024 as service could not be effected by the regular mode.

3. The Insolvency Petition was initially attempted to be served on the Judgment Debtors on 5th December 2024, 6th December 2024 and 9th December 2024 but could not be served as the premises was found locked and it was informed that the office was closed since 1 year. Thereafter, as per order dated 7th January 2025, the Judgment Debtors were served on 20th February 2025 by affixing the certified copy of the Insolvency Petition along with affidavit in support and covering letter of Advocate for the Petitioning creditor on the main door of the commercial premises of the Judgment Debtors.

4. None appears for the Judgment Debtors despite service.

5. It is submitted that the said Judgment Debtors having not complied with the Insolvency Notice within the prescribed period of 35 days or any time thereafter, have committed an act of insolvency on 27th August 2024. The Judgment Debtors have not taken out any Notice of Motion for setting aside the notice and also failed to comply with the requisitions thereof. That, the time to comply with the Insolvency Notice and for adopting proceedings for setting aside the Insolvency Notice expired on 26th August 2024. Accordingly, an act of insolvency has been committed by the two Judgment Debtors on 27th August 2024.

6. It is submitted that the act of insolvency has been committed within three months prior from the date of presentation of the Petition.

7. That, neither Petitioning Creditor nor any person on his behalf holds any security on the Judgment Debtors' estate or any part thereof for the payment of the said amount due to the Petitioning Creditor under the decree passed against the Judgment Debtors.

8. In view of the above discussion, an act of insolvency having been committed, I am inclined to allow the Petition in terms of prayer clauses (a) and (c) which read thus :

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

(c) for costs and costs relating to the Petition including the publication costs for order of adjudication prayed for herein.

9. 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.

10. 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.

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

12. 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.

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

(ABHAY AHUJA, J.)

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