

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

INSOLVENCY PETITION NO.18 OF 2024

Dheeraj Dineshkumar Agarwal

...Petitioner

V/s.

Kiran Ravie Lalpurria

...Respondent

Mr. Girish Kedia with Ms. Ujawala Karde and Mr. Krushang Kedia for Judgment Creditor.

Mr. Ashok Saraogi with Mr. Anand Mishra for the Judgment Debtor.

Mrs. Rekha Vijaykumar Rane, Insolvency Registrar present.

**CORAM : ABHAY AHUJA, J.
DATE : 28th APRIL 2025**

PC. :

1. This Insolvency Petition seeks to adjudicate the Judgment Debtor viz. Mr. Kiran Ravie Lalpurria, as Insolvent.

2. Earlier, in Summary Suit No. 524 of 2024, the City Civil Court at Mazgaon passed a judgment and decree for a sum of Rs. 1,37,67,236/- with further interest at the rate of 9.5@ p.a. on the principal amount of Rs. 1 Crore from 1st October, 2024 till payment and / or realisation as per the particulars of claim.

3. Since no payment had been received under the said decree, at the instance of the Judgment Creditor / Petitioning Creditor, Insolvency

Notice No. N/13 of 2024 dated 4th October, 2024 for recovery of Rs. 1,37,67,236/- was issued against the Judgment Debtor. The Insolvency Notice was served upon the Judgment Debtor on 21st October, 2024 by hand delivery. As per the said Notice, the Judgment Debtor was required to pay the Judgment Creditor/Petitioning Creditor the amount claimed therein or to take out proceedings for setting aside the Insolvency Notice within 35 days from the date of service of the said Notice upon the Judgment Debtor, excluding the date of such service.

4. Mr. Kedia, learned Counsel appearing for the Petitioning Creditor has submitted that although service of the Insolvency Notice had been effected on 21st October, 2024, no Notice of Motion has been taken out for setting aside the Insolvency Notice nor the decree has been satisfied.

5. Learned Counsel for the Judgment Creditor accordingly submits that the Judgment Debtor has not complied with the Insolvency Notice and therefore, committed an act of Insolvency on 28th November, 2024.

6. Mr. Kedia submits that although time was sought earlier to deposit the said amounts before the Appeal Court as recorded in order dated 15th April, 2025, the decretal amount has not been deposited. Mr. Kedia submits that the time to comply with the Insolvency Notice and for adopting the proceedings for setting aside the Insolvency Notice has expired on 28th November, 2024. That, therefore, this Court adjudicate the Judgment Debtor as an Insolvent in terms of the Presidency Towns Insolvency Act, 1909.

7. Mr. Mishra, learned Counsel appearing for the Judgment Debtor confirms that no monies have been deposited before the Appeal Court as was directed by order dated 13th March, 2025 and that there is no stay to the Judgment and Decree.

8. It is observed from the orders dated 1st April, 2025 and 15th April, 2025 that although the Appeal Court had granted time to the Judgment Debtor to deposit the amounts before the Appeal Court, no monies have been deposited and the same is also confirmed today by the learned Counsel appearing on behalf of the Judgment Debtor.

9. In view of the aforesaid facts, the Judgment Debtor has 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/13 of 2024 nor the Decree has been satisfied by payment to the Petitioning Creditor under the said Insolvency Notice within the statutory period of 35 days or at any time nor any proceedings for setting aside the said Insolvency Notice have been filed.

10. It is submitted that the Petitioning Creditor nor any person on her behalf holds or has held any security of the Judgment Debtor's estate or any part thereof for the payment of decretal amounts due to the Petitioning Creditor under the judgment and decree dated 3rd September, 2024 passed against the Judgment Debtor.

11. 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) An order of adjudication may be made by this Hon’ble Court against the Debtor.”

12. 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 Insolvent with any nationalized Bank as per the circular issued by the office of the Prothonotary & Senior Master of this Court.

13. 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.

14. The Judgment Debtor is directed to comply with all requisitions under Section 33 of the Presidency Towns Insolvency Act, 1909.

15. 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 Debtor.

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

17. After the order is dictated, Mr. Saraogi, learned Counsel appears for the Judgment Debtor and seeks stay on the order for a period of four weeks.

18. Mr. Kedia, learned Counsel appearing for the Judgment Creditor opposes the same.

19. In view of what has been held as above, the request made by Mr. Saraogi is rejected.

(ABHAY AHUJA, J.)

NIKITA
YOGESH
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