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

**NOTICE OF MOTION (L) NO. 29 OF 2015
IN
INSOLVENCY PETITION NO.10 OF 2012**

Jitendra Rijhwani
VS
Bharat Chaturvedi

...Petitioning Creditor
...Insolvent

.....
Ms Kavita S. Lalwani for the Petitioning Creditor
Mr Anil P Bagwe for the insolvent.
Mr M.D.Narvekar, Official Assignee present.
.....

CORAM : S.C. GUPTE, J.

JULY 21, 2015

P.C. :

This Notice of Motion is taken out by the Insolvent for annulment of an order of Adjudication that was passed on 4 September 2012 declaring him as Insolvent.

2 Mr Bagwe, learned Advocate for the Insolvent, states that the Insolvent has set out the names of his creditors in the Affidavit in support of the schedule of assets and liabilities filed by him. These creditors are the only creditors of the Insolvent. The claims of these creditors have been duly settled by a well-wisher of the Insolvent.

3 Ms Lalwani, learned Advocate for the Petitioning Creditor is present in Court and submits that the claim of the Petitioning Creditor has been duly satisfied by the well wisher of the Insolvent. The Official Assignee also confirms that apart from the claims of the creditors, whose names are set out in the schedule of assets and liabilities of the Insolvent, there are no claims received by the Official Assignee. Since the claims of all Creditors of the Insolvent have been

settled and there are no claims pending with the Office of the Official Assignee, the adjudication can be annulled.

4 In view of the above, the Notice of Motion is made absolute in terms of prayer clauses (a), (b) and (c) subject to the well-wisher filing an undertaking-cum-indemnity bond with the Official Assignee undertaking to pay the claims of any creditors payable as on the date of this order but lodged subsequently with the Official Assignee. However, the Official Assignee is authorized to deduct the commission charges as per rule 180 of the "Bombay Insolvency Rules, 1910" and the well-wisher of the Applicant/ Insolvent undertakes to pay the same. The prayer clauses (a), (b) and (c) of the Notice of Motion are reproduced hereunder for ready reference:

- (a) That this Hon'ble Court be pleased to annul and/or set aside the order of adjudication dated 4th day of September, 2012 passed by this Hon'ble Court in the above Insolvency Petition No.10 of 2012 filed by the above Petitioning Creditor, under Section 21(1) of Presidency Town Insolvency Act, 1909 on the ground of full payment;
- (b) That this Hon'ble Court be pleased to direct the Official Assignee, High Court, Bombay to write the necessary letters to the concerned parties, to whom he has informed about the Insolvency of the above Debtor;
- (c) That the Public Examination of the Insolvent above-named be ordered to be dispensed with.

5 Notice of Motion is disposed of accordingly.

(S.C.GUPTE J.)