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

**IN INSOLVENCY**

**NOTICE OF MOTION NO.40 OF 2015**

**IN**

**PETITION NO. 22 OF 2003**

**Re:**

1. Amit Umesh Khatu
2. Umesh Ravindranath Khatu
3. Smt. Mrunalini Umesh Khatu                      ...Insolvents (Debtors)

**Ex-parte:**

Mandvi Co-operative Bank Ltd.                      ...Petitioning Creditor

.....

Mr. Umesh S. Borade, for the Insolvents.

Mr. Amit Umesh Khatu, Insolvent No.1 present.

Mr. M.D. Narvekar, O.A. present.

....

**CORAM : S.C. GUPTE, J.**

**20 OCTOBER, 2015**

**P.C. :**

.                      The Notice of Motion seeks annulment of adjudication of insolvency under Section 21(1) of the Presidency Town Insolvency Act, 1909 on the ground of discharge of the creditors. This Court, by a conditional order dated 19 August 2003, adjudged the three Debtors as Insolvents. The conditional order required payment of decretal amount to the Judgment Creditor or production before the Insolvency Registrar of a document showing either a settlement between the Petitioner and the Debtors or satisfaction of the decree. The Insolvents have produced a

certificate issued by the Creditors - Mandvi Co-operative Bank Ltd. dated 22 July 2004 acknowledging payment of Rs.18.93 lacs towards the settlement amount of Rs.24.56 lacs. By a subsequent receipt Mandvi Co-Operative Bank Ltd. acknowledged payment of Rs.2.75 lacs in full and final satisfaction of their claims against the Insolvents, including the cost of the petition and adjudication. By this receipt, Mandvi Co-operative Bank Ltd. have declared that they have no claims whatsoever against the Insolvents. The Official Assignee confirms that there are no other creditors, whose claims are outstanding. Having regard to the full and final discharge of the claims of the Petitioning Creditor by the Insolvents, the motion for annulment is made absolute in terms of prayer clauses (a), (b) and (c). The Insolvents shall, however, deposit an appropriate amount representing 3% commission payable to the Official Assignee on the liability of Rs.21.68 lacs and also furnish a suitable indemnity body indemnifying the Official Assignee against any future claims or demands.

**( S.C.GUPTE J. )**