

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY
NOTICE OF MOTION NO. 9 OF 2015
IN
INSOLVENCY PETITION NO. 20 OF 2012

Re :

1. Rajan Javier Patel
2. Nikita Rajan Patel

... Applicants
Insolvents

Ex parte :

Ghisalal C. Shah

... Petitioning Creditor

Mr. Umesh S. Borade for the Applicants / Insolvents.

None for the Petitioning Creditor.

Mr. M.D. Narvekar, OA, present.

CORAM : S.J. KATHAWALLA, J.

DATED : 4TH MARCH, 2015

P.C.:

1. The above Notice of Motion is taken out by the Applicants / Insolvents viz. 1) Rajan Javier Patel and 2) Nikita Rajan Patel for annulment of the order of adjudication dated 4th July, 2013 declaring them as Insolvents.

2. Mr. Borade, the learned Advocate appearing for the Applicants / Insolvents states that the Petitioning Creditor is the only creditor of Insolvents and the claim of the Petitioning Creditor has been settled by the well-wisher of Insolvents.

3. None appear for the Petitioning Creditor.

4. The Official Assignee has informed the Court that he has not received any claims in the matter. In view thereof, the above Notice of Motion is allowed in terms of prayer clauses (a) and (b) subject to the well-wisher filing an undertaking cum indemnity bond with the Official Assignee to satisfy the claims of the creditors of the Insolvent Nos. 1 and 2 payable as on the date of this order, but lodged subsequently with the Official Assignee.

5. The Official Assignee is entitled to claim the commission as per Rule 180 of the Bombay Insolvency Rules, 1910 and the well-wisher of the Applicants / Insolvents undertake to pay the same.

6. Prayer clauses (a) and (b) are reproduced hereunder :

“(a) That the order of adjudication passed against the Insolvents abovenamed by the Hon'ble Insolvency Court on 4th July, 2013 may be annulled under Section 21(1) of the Presidency Town Insolvency Act, 1909 on the ground of full payment.

(b) That the public examination of Insolvents abovenamed be ordered to be dispensed with by this Hon'ble Court”.

7. The above Notice of Motion is accordingly disposed of.

(S.J. KATHAWALLA, J.)