

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NOTICE OF MOTION NO. 41 OF 2014****IN****INSOLVENCY PETITION NO. 91 OF 1989**

Re: J.M.Sons & Others. ... Insolvents

Ex-parte :

Hiralal J. Jain. ... Petitioning Creditor

AND**NOTICE OF MOTION NO. 40 OF 2014****IN****INSOLVENCY PETITION NO. 16 OF 1995**

Re: Vimlaben Vasant Dalal and Ors. ... Insolvents

Ex-parte :

Champalal J. Jain. ... Petitioning Creditor

AND**NOTICE OF MOTION NO. 63 OF 2014****IN****INSOLVENCY PETITION NO. 3 OF 1995**

Re: Vasant Jethalal Dalal & Anr. ... Insolvents

Ex-parte :

Kalidas Lalchand Jain. ... Petitioning Creditor

AND**NOTICE OF MOTION NO. 64 OF 2014****IN****INSOLVENCY PETITION NO. 9 OF 1995**

Re: Vasant Jethalal Dalal and Anr. ... Insolvents

Ex-parte :

Jayantilal M. Jain.

... Petitioning Creditor

Ms. Vinni, i/b S.N.Acharya for the Corporation Bank – Creditor in Insolvency Petition Nos.3/1995 and 9/1995.

Ms.Sheetal Shah, i/b Mehta & Girdharlal for the Insolvents.

Shri M.D.Narvekar, Official Assignee is present.

CORAM: S.J.KATHAWALLA, J.

DATE : JANUARY 6, 2015.

P.C. :-

1. The above Notices of Motion are taken out by the Applicants/Insolvents for annulment of adjudication dated 21st September, 1996, in Insolvency Petition Nos.3 of 1995, 9 of 1995 and 16 of 1995, and Adjudication dated 21st November, 1995 in Insolvency Petition No.91 of 1989, declaring them as Insolvents.

2. The learned Advocate for the Insolvents states that the Insolvents have set out the names of their Creditors in the Affidavit-in-support of the above Notice of Motion. The said Creditors are the only creditors of the Insolvents and all the claims of the said Creditors including the claim of the Petitioning Creditors have been duly settled by the well-wisher of the Insolvents.

3. Though the present Notice of Motion is duly served upon the creditors, except for the Corporation Bank, none appear for the Creditors. The learned Advocate appearing for the Corporation Bank states that the

claim of the Bank has been duly settled by the well-wisher of the Insolvents and the Bank has no objection if Order of adjudication passed against the Insolvents is annulled.

4. The Official Assignee states that all the claims of the creditors have been settled, except the claims of Bihar Alloys Steel Ltd. and Dena Bank in Insolvency Petition Nos.16 of 1995 and 91 of 1989, in the sum of Rs.37,040/- and Rs.37,013/-, respectively. He further states that the well-wisher of the Insolvents has deposited the said amounts payable to Bihar Alloys Steel Ltd., and Dena Bank. He also states that the Advocate for the Insolvents has produced in his Office the original Receipts issued by the Creditors confirming the payments received towards their dues. The Official Assignee has also stated that the well-wisher of the Insolvents has deposited a sum of Rs.1,31,000/- in Insolvency Petition Nos.16/1995, 3/1995 and 9/1991 and a sum of Rs.12,00,000/- in Insolvency Petition No. 91/1989, aggregating to Rs.13,31,000/- towards the Commission charges of the Official Assignee.

5. In view of the above, the above Notices of Motion are made absolute in the following terms :

(i) The orders of adjudication dated 21st September, 1996 passed in Insolvency Petition Nos.3/1995, 9/1995 and 16/1995, and dated 21st November, 1995 passed in Insolvency Petition No. 91/1989 against the

respective Insolvents are annulled under Section 21 (1) of the Presidency Towns Insolvency Act, 1909, on the ground of full payment;

- (ii) the public examination of the Insolvents are dispensed with;
- (iii) the well-wisher of the Insolvents to file an Undertaking-cum-Indemnity Bond with the Official Assignee, to pay any claims of any creditors lodged subsequently with the Official Assignee;
- (iv) the Official Assignee is authorized to deduct the commission charges as per Rule 180 of the Bombay Insolvency Rules, 1910, as mentioned hereinabove.

7. The above Notices of Motion are accordingly disposed of.

(S.J. KATHAWALLA, J.)