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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
OFFICIAL ASSIGNEE'S REPORT NO.10 OF 2016
IN
INSOLVENCY PETITION NO. 67 OF 1964
WITH
NOTICE OF MOTION NO.39 OF 2016
IN
INSOLVENCY PETITION NO. 67 OF 1964

Re:

Detaram Teckhchand Punjabi

...Insolvent (Debtor)

Exparte :

Mulla & Mulla C.B. & Core

...Petitioning Creditor

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Mr. Sachin S. Punde for the Applicant/legal heir of the Insolvent.

Mr. M.D. Narvekar, Official Assignee present.

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CORAM : S.C. GUPTE, J.

NOVEMBER 15, 2016

P.C. :

. This Official Assignee's Report seeks directions concerning the surplus amounts lying in the estate account of the deceased Insolvent. There is also a Notice of Motion taken out by the legal heirs of the deceased Insolvent seeking directions for payment of the surplus amount. On the basis of the Schedule of Assets and Liabilities furnished by the Insolvent pursuant to his adjudication, the Official Assignee has recovered assets as mentioned in his report. Upon realisation of these assets, a dividend has

also been declared to the admitted preferential creditor. Further recoveries have been made by the Official Assignee, pursuant to which, further dividends have been declared to the preferential creditor as also to the unsecured creditors.

2. After payment of 100% dividend to the preferential creditor as well as unsecured creditors, there was a surplus in the estate account of the Insolvent, who had died in the meantime. In the premises, the Official Assignee submitted a report to this Court, being Report No.136 of 2006 for directions for annulment. That report was made absolute by the Insolvency Court permitting the Official Assignee to pay interest under Section 49(6) of the Presidency Towns Insolvency Act, 1909 to preferential and unsecured creditors of the deceased Insolvent and annul the insolvency after such payment and refund the surplus lying to the credit of the estate of the deceased Insolvent to his legal heirs on production of legal representation.

3. In pursuance of the order passed on the Official Assignee's Report, the Official Assignee has also declared and distributed interest at the rate of 6% per annum under Section 49(6) of the Presidency Towns Insolvency Act, 1909. The Official Assignee has caused a publication to be made calling for the claims of creditors for payment of interest against advance stamped receipts. Such of the creditors, as have lodged their advance stamped receipts in the Office of the Official Assignee till date, have been duly paid the interest amounts. After all these payments, it appears that all creditors, who have come forward, have been duly paid the interest due to them in accordance with the directions passed by the Insolvency Court. There is no other creditor to whom any amount is owed by the deceased Insolvent, save and except the legal heirs of the deceased of

Rustom J.R.B. Jeejeebhoy, whose claim for interest under Section 49(6) in the sum of Rs.5618.41 remains unpaid. The legal heirs of the deceased Rustom J.R.B. Jeejeebhoy, through his widow, have approached the Official Assignee for payment of this interest against an advance stamped receipt. The Official Assignee, in the premises, prays for suitable orders in respect of the surplus amount lying in the estate account of the deceased Insolvent.

4. In these facts, the Official Assignee is permitted to make payment of the surplus amount lying in the estate of the deceased Insolvent to the Applicant in the Notice of Motion, namely, Hari Singh Narayan Singh Punjabi, after deducting the sum of Rs.5618.41 payable to the legal heirs of the deceased Rustom J.R.B. Jeejeebhoy and also 3% commission payable to the Official Assignee as per Rule 180 of the Presidency Towns Insolvency Rules, 1910 on the total liability of Rs.290708.93. Accordingly, the Official Assignee shall deduct a sum of Rs.14340.41 from the surplus lying with him to the credit of the deceased Insolvent and return the balance amount to the Applicant Hari Singh Narayan Singh Punjabi. The amount of Rs.5618.41 may be paid by the Official Assignee to the widow of Rustom J.R.B. Jeejeebhoy against stamped receipt to be executed by the recipient.

5. The Official Assignee's Report and the Notice of Motion are disposed of in the above terms.

(S.C.GUPTA J.)