

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

**NOTICE OF MOTION NO.36 OF 2017
IN
INSOLVENCY PETITION NO.79 OF 2002**

Smt. Bharati Bhalchandra Shinde &
Bhalchandra Shinde (deceased)Applicant/Insolvent

V/s.

Manipal Finance CorporationPetitioning Creditor

Mr. Ramesh Jain for petitioning creditor.
Mr. K.J. Somane for applicant/insolvent no.1.
Mr. M.D. Narvekar, Official Assignee present.

**CORAM : K.R.SHRIRAM, J.
DATE : 17th APRIL, 2018**

P.C.:

1 This notice of motion is taken out for annulling the order of insolvency passed against applicant as per the provisions of Section 21 of The Presidency-Towns Insolvency Act, 1909. According to Mr. Somane, the entire claim of petitioning creditor has been paid. Mr. Jain, counsel for petitioning creditor confirms the same and states that the same has been settled at Rs.1,50,000/- and the said amount also has been paid.

2 Official Assignee states that subject to applicant paying 3% of Rs.1,50,000/- as commission to Official Assignee, the Court may allow the notice of motion. Mr. Somane states that applicant will pay this amount of Rs.4,500/- which is 3% of Rs.1,50,000/- within two weeks from today. Upon payment of this amount, the order of adjudicating applicant as insolvent will stand annulled. Applicant is permitted to apply to Official Assignee for

release of amounts with Official Assignee due to applicant.

3 Notice of motion accordingly stands disposed.

4 Notice of motion was taken out by insolvent no.1 jointly with insolvent no.2 – Bhalchandra Shinde. In view of the death of insolvent no.2 on 7th July, 2015, his name was struck off from the application. Technically, therefore, there is no application for annulling the order of adjudication on behalf of insolvent no.2 but that would affect the estate of insolvent no.2.

5 Since the basis of insolvency petition itself is that applicant as well as her late husband – Bhalchandra Shinde were indebted to petitioning creditor, petitioning creditor having made a statement that the entire claim of petitioning creditor has been settled, I see no reason why the order adjudicating late Bhalchandra Shinde as an insolvent should remain. Therefore, the order adjudicating late Bhalchandra Shinde as insolvent also stands annulled accordingly.

(K.R. SHRIRAM, J.)