

IN THE HIGH COURT AT BOMBAY
IN INSOLVENCY
INSOLVENCY PETITION NO. 20 OF 2018

Re :- Hemlata M. Ganatra. ... Debtor/Petitioner.

Before :- The Insolvency Registrar,
High Court, Bombay.

Date :- 27th June, 2019 at 12.30 p.m.

Present:-

Mr. Y. M. Naik, Advocate for the Debtor/Petitioner.

To-day, the matter is kept for passing the Order of adjudication under Section 15 read with Section 6(2)(a) of the Presidency Towns Insolvency Act, 1909.

In this matter, Insolvent has filed/presented the Petition under Section 14 of abovementioned Act on 23rd April, 2018 for being declared her as an Insolvent. After presenting the Petition, the Petition was kept for the Preliminary Examination of the Debtor/Petitioner on 22nd June, 2018, 27th June, 2018, 11th July, 2018, 18th July, 2018, 26th July, 2018, 8th August, 2018, 24th August, 2018 and 11th September, 2018. After examining the Debtor/Petitioner the Preliminary Examination was closed on 24th September, 2018.

After completion of the Preliminary Examination and upon complying with the provision of Rule 83 of Bombay Insolvency Rules, 1910 by the Debtor/Petitioner, the Official Assignee issued Certificate dated 13th June, 2019, inter alia, certifying that the Debtor/Petitioner has furnished such information regarding her estate and effects as required under Rule 83 with the Official Assignee.

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Upon enquiry, the Debtor/Petitioner states that she has filed the Petition to declare her as an Insolvent, as she does not have money to repay her Creditors. She further states that because of the critical condition of her son's illness, her son is not capable to run family business and there are no chances of her son developing the business further as well as due to heavy losses in businesses her reputation in business circle, friend circle and among her relatives is spoiled and now nobody lends/advances her any money and, therefore, she had made the present application to become insolvent for the first time by filing this Insolvency Petition under Section 14 of the Presidency Towns Insolvency Act, 1909 on 23rd April, 2018. She further say that due to heavy losses in the business and closure of the business as mentioned hereinabove her Creditors issued recovery notices and, therefore, it is very difficult for her to survive in the business and to repay her Creditors.

According to her by filing the Insolvency Petition her Creditors may not be harassed for recovering the amount from her. She further added that the Creditors are harassing her by using undue influence of Police Authority as well as anti social elements and, therefore, she also lost her peace of mind.

She further added that she is aware about the consequences of the Order of the adjudication passed against her. After the Order of the adjudication, she will not be able to do the business as well as all her Civil rights will be suspended. Her name and reputation in the Society may be spoiled and tarnished. She further states that she is aware about the provisions of Section 17 of the abovementioned Act, wherein on the Order of adjudication, property of the Debtor/Petitioner wherever situate shall vest in the office of the Official Assignee and shall become divisible amongst her Creditors.

Debtor/Petitioner further submitted that upon passing of Order of adjudication as required under Section 24 of the abovementioned Act, she will be filing the Schedule of Assets & Liabilities.

She further confirmed the Order of the adjudication may afford her protection only against the proceedings in Civil Courts and enforcement of Order passed by Civil Court. Debtor/Petitioner further states that she does not have any intention to use the Order of adjudication for seeking protection against Criminal Proceedings or enforcement of Order passed therein. The Debtor/Petitioner further submitted that she is aware that by an Order of adjudication she will not be entitled to seek stay of Criminal or quasi criminal proceedings including the proceedings under Section 138 of the Negotiable Instrument Act.

PER INSOLVENCY REGISTRAR:-

In view of the above and upon reading the Petition of the abovementioned Debtor/Petitioner dated 16th April, 2018 and upon hearing the said Debtor/Petitioner and her Advocate the said Debtor/Petitioner be and she is hereby adjudged Insolvent. The Insolvency Petition is made absolute in terms of prayer clause (a) which reads as under:-

“(a) That an order of adjudication may be made against the debtor abovenamed by this Hon'ble Court.”

It is further Ordered that all the estates and effects of the said Debtor/Petitioner do vest in the Official Assignee of Bombay and the Debtor/Petitioner is directed to attend the office of the Official Assignee as early as possible, to comply with the further requisitions of the Office of the Official Assignee after Order of adjudication.

sd/-

rrk/srp.

INSOLVENCY REGISTRAR.