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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN INSOLVENCY JURISDICTION**

**NOTICE OF MOTION NO.6 OF 2019
IN
INSOLVENCY NOTICE NO.17 OF 2018**

Pradeep Mishra

... Applicants /
Judg. Debtor

Vs.

Jagdish Vithaldas Mashru

... Respondents /
Judg. Creditor

Mr. Manoj Agre, i/b. Girish Kedia for Judg. Creditor.

CORAM: R. I. CHAGLA, J.
DATE: 1ST OCTOBER, 2019

PC:-

1. None appears for the Judgment Debtor.
2. The Notice of Motion is for setting aside the Insolvency Notice No.17 of 2018 dated 30th July, 2018. An ex parte decree had been passed by the City Civil Court on 6th February, 2018. The learned Counsel for the Respondents / Judgment Creditor tenders a letter dated 1st January, 2017 which have been addressed by the Advocates of the Applicant / Judgment Debtor to the Respondent / Judgment Creditor, wherein they have accepted a liability of payment of Rs.1,96,338/- payable to the Judgment Creditor.

3. Considering that, none appears for the Judgment Debtor and that the Judgment Creditor was unable to file the Insolvency Petition by virtue of this Notice of Motion which had been filed way back on 4th September, 2018, it would be proper to dismiss the Notice of Motion. Hence Notice of Motion accordingly stands dismissed with no order as to costs.

4. The Judgment Creditor is granted liberty to take out the Insolvency Petition.

5. It is also noted that the Judgment Debtor has not filed any Notice of Motion for setting aside the exparte decree before the City Civil Court, Bombay.

(R I. CHAGLA, J.)