

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

INSOLVENCY PETITION NO.32 OF 2018

Re :

Saraswati Rochiram Jagwani

... Debtor

Ex-Parte :

Bhanudas Eknath Jadhav

... Petitioning Creditor

Mr. A.S.Mishra, for Petitioning Creditor.

CORAM: S.J. KATHAWALLA, J.

DATE: 5th NOVEMBER, 2019

P.C.:

1. By the above Petition, the Petitioning Creditor has prayed for an order of adjudication against the debtors mentioned above.
2. According to the Petitioning Creditor, he had advanced an amount of Rs.1,00,000/- to the debtor on the condition that he would return the said amount within three months from the date of advance @ 18% p.a. The debtor had also executed a Bill of Exchange dated 20th April, 2018 for the said amount in favour of the Petitioning Creditor. Since the debtor has failed and neglected to pay the said amount with interest accrued thereon to the Petitioning Creditor, the Petitioning Creditor through his Advocate sent a notice dated 25th July, 2018 calling upon the debtor to pay the amount covered under the Bill of Exchange dated 20th April, 2018. The Debtor has received the said notice and sent a reply letter dated 30th July, 2018, which is

reproduced hereunder :

“We refer to your letter – cum – notice dated 25th July, 2018 issued on behalf of Mr. Bhanudas Eknath Jadhav.

In connection with the same, we hereby inform you that due to financial crisis our business is stopped and no productive activities are going on.

Due to closure of our said business we are suffering more financially and hence, we are unable to pay to our creditors. We therefore, suspended the payments of all the claimants/creditors, which please take note of the same and inform your client accordingly.”

.....

3. In view thereof, since the debtor has suspended the payment under the bill of exchange, the debtor thereby committed an act of insolvency on 30th July, 2018. The Petitioning Creditor therefore, took out the present Insolvency Petition on 24th September, 2018 for an order of adjudication against the Debtors mentioned above.

4. The above Insolvency Petition has been duly served upon the judgment debtor and Affidavit proving service thereof dated 8th October, 2018 is on record. However, the debtor is absent today and has not filed any Affidavit in Reply thereto. Hence, the facts narrated on behalf of the Petitioning Creditor and the submissions made before the Court on his behalf have remained uncontroverted. In the circumstances, the Petition is allowed in terms of prayer clauses (a) and (b) which are

reproduced hereunder :

“(a) An order of adjudication may be made by this Hon’ble Court against the Debtor abovenamed;

(b) For cost of this Petition and incidental and consequential thereto;”

5. The Insolvency Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)