

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY JURISDICTION

NOTICE OF MOTION NO. 1 OF 2021
IN
INSOLVENCY PETITION NO. 14 OF 2012

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Vaibhav Anant Vichare ...Applicant

In the matter of :

Re : Vaibhav A. Vichare .. Insolvent

Ex-parte :

Dharamdas Devidas Sanghvi .. Petitioning Creditor
And
The Official Assignee .. Respondent

...
Ms. Kritika Kothari i/b M/s. N.N. Vaishnava & Co. for petitioning creditor.

Mr. Amar Ashok Gharte for applicant.

Mr.E.B. Sivakumar, Deputy O.A., present.

Ms. M.P. Kunte, Insolvency Registrar, present.

Mr. Subodh Patil, 1st Asstt. O.A., present.

CORAM : N. J. JAMADAR, JJ.

DATE : 23rd NOVEMBER, 2021

P.C.:

1. Heard the learned counsel for the applicant.
2. This notice of motion is taken out by the insolvent to set aside and annul an order of adjudication, dated 19th March 2013 under section 21(1) of the Presidency Town Insolvency Act, 1909 on the ground of settlement of claim of the creditor.

3. In the affidavit in support of the notice of motion, it is averred that, during the pendency of the Public Examination before the Insolvency Registrar, the petitioning creditor passed away on 21st July 2019. Smt.Manjula Dharamdas Sanghvi, the wife of the petitioning creditor is the sole legal representative of the deceased petitioning creditor. In the meanwhile, there were negotiations between the parties and pursuant thereto, well-wishers of the insolvent have deposited a sum of Rs.1,50,000/- in this Court. The well-wishers have also persuaded Mrs. Manjula Sanghvi, the sole legal representative of the deceased petitioning creditor, to settle the matter for a sum of Rs.2,50,000/-. Accordingly, the well wishers have paid a sum of Rs.1,00,000/- to Mrs. Manjula Dharamdas Sanghvi on 28th October 2020 and receipt of the said amount is duly acknowledged by Mrs. Manjula Dharamdas Sanghvi by passing the receipt (Exh.C'). In the said receipt, Mrs. Manjula Dharamdas Sanghvi has agreed that upon payment of Rs.2,50,000/-, the petitioning creditor would have no claim of any nature whatsoever against the insolvent.

4. The learned counsel for the legal representative of the petitioning creditor submits that in view of the settlement, and

payment of the aforesaid amount of Rs.1,00,000/-, with liberty to Mrs. Manjula Dharamdas Sanghvi to withdraw the amount of Rs.1,50,000/- alongwith the interest accrued thereon, the legal representative of the petitioning creditor has no objection to annul the order of adjudication.

5. The well-wisher of the insolvent has also filed an undertaking-cum-indemnity bond.

6. The Official Assignee submits that the well-wishers have already deposited the commission.

7. In view of the aforesaid submissions, and the fact that the legal representative of the petitioning creditor and the well-wishers of the insolvent have amicably resolved the dispute and the claim is settled for the sum of Rs.2,50,000/-, the notice of motion stands allowed in terms of prayer clauses (a) and (b).

8. The order of adjudication dated 19th March 2013 passed against the insolvent stands annulled.

9. Show Cause Notice No. 2 of 2018 also stands discharged.
10. Registry shall pay the amount of Rs.1,50,000/- alongwith interest accrued thereon to Mrs. Manjula Dharamdas Sanghvi, the sole legal representative of the petitioning creditor on proper identification.

(N. J. JAMADAR, J.)