

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

**NOTICE OF MOTION NO. 6 OF 2025
IN
INSOLVENCY PETITION NO. 19 OF 2018**

RE : VISHAL DHORIA)...APPLICANT/INSOLVENT
EX-PARTE
ASHOK KASTURCHAND KOTHARI)...PETITIONING CREDITOR
V/s.
OFFICIAL ASSIGNEE OF BOMBAY)
HIGH COURT)...RESPONDENT

Mr.Kunal Savaskar i/by Mr.Nikhil Mengde, Advocate for the Applicant/
Insolvent.

Ms.C.J.Bhatt, Official Assignee a/w. Mr.Subodh Patil, Deputy Official
Assignee and Mr.D.B.Iswalkar, 1st Assistant to the Official Assignee,
preesnt in Court.

Mr.Arun Kesarkar, I/c. Insolvency Registrar, present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 18th MARCH 2025

P.C. :

1. This Notice of Motion seeks the following prayers :
 - (a) That the order of adjudication passed against the Insolvent above named by this Hon'ble Insolvency Court on 5th November 2019 be annulled U/s. 21(1) of the Presidency Towns Insolvency Act, 1909, (the “said Act”) on the ground of full payment.

(b) Pending the hearing and final disposal of Notice of Motion the letter dated 31st January 2022 issued by the Official Assignee to the society be withdrawn/set aside.

2. Mr.Kunal Savaskar, learned Counsel, appears for the Applicant / Insolvent and submits that by order dated 5th November 2019, the Applicant viz. Vishal Dhoria was adjudicated as Insolvent. However, on 7th November 2023, this Court accepted the undertaking that the Insolvent would pay Rs.2 lakhs towards full and final settlement. That, Rs.1,50,000/- was paid by demand draft dated 22nd November 2023 and Rs.50,000/- has been recorded to be paid in the order dated 16th January 2024 of this Court, which the learned Counsel submits was paid in cash.

3. It is submitted that, therefore, there is no amount due to the Petitioning Creditor and that this Court, therefore, annul the insolvency under Section 21(1) of the Presidency Towns and Insolvency Act, 1909, and also waive the pending compliance under the said Act.

4. The learned Official Assignee has also filed her say dated 17th March 2025 which also confirms the said payment. The learned Official Assignee informs that there is no other claim lodged with the Official

Assignee except of the Petitioning Creditor which has been settled. It is therefore submitted by the learned Official Assignee that this Court may pass necessary orders subject to the two directions in paragraph 4 of the said say.

5. Having heard the learned Counsel as well as the learned Official Assignee, this Court is of the view that the Notice of Motion be allowed subject to the following:

- (a) Well-wisher of the Insolvent is directed to pay 3% Official Assignee Commission on the total claim amount;
- (b) Well-wisher of the Insolvent is directed to give Undertaking cum Indemnity Bond in respect of any future claim(s) to the Official Assignee.

7. The adjudication of the insolvency of Mr.Vishal Dhoria, the Applicant, subject to above directions, is accordingly annulled.

8. Any compliance under the Presidency Towns Insolvency Act, 1909, accordingly to stand waived.

9. The Notice of Motion stands allowed and disposed as above.

(ABHAY AHUJA, J.)

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