

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

FRIDAY, THE 11TH DAY OF AUGUST, 2017

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

APPLN.NO.5 OF 2017

IN

IP.No.28 OF 2014

In the matter of Presidency
Towns Insolvency Act III, of
1909 and In the matter of
GAUTHAM N.MAHABUBANI
... Debtor

I.P.NO.28 OF 2014

1. Rahim Sattar Ghouse Sharieff
S/o.late Haji R.A.Sattar Sahib
2. Mrs.Hajeera Sharieff,
Both are residing at Flat No.5,
New No.7, First Cross Street,
Virugambakkam, Chennai-600 092. ... Petitioning Creditors

-Versus-

Gautham N.Mahabubani,
S/o.N.K.Mahabubani,
No.2, Krishna Cottage,
Old No.45, New No.76,
Halls Road, Kilpauk,
Chennai-600 010.

... Debtor

APPLN.5 OF 2017

Gautham N.Mahabubani,
S/o.N.K.Mahabubani,
No.2, Krishna Cottage,
Old No.45, New No.76,
Halls Road, Kilpauk,
Chennai-600 010.

...Applicant/Debtor

-VS-

1. Rahim Sattar Ghouse Sharieff
S/o.late Haji R.A.Sattar Sahib
... 1st Respondent/Petitioning Creditor

2. Mrs.Hajeera Sharieff,
Both are residing at Flat No.5,
New No.7, First Cross Street,
Virugambakkam, Chennai-600 092.

... 2nd Respondent/Petitioning Creditor

3.The Official Assignee,
High Court,
Chennai. ... 3rd Respondent

Application praying that this Hon'ble Court be pleased to annul the order of adjudication dated 17.11.2014 passed in I.P.No.28 of 2014 as against the applicant.

The above application coming on this day before this court for hearing in the presence of Mr.Pitty Parthasarathy, advocate for the Applicant/Debtor, Mr.S.Ramesh, advocate for the Respondents 1 &2/Petitioning Creditors and Mrs.C.B.Meena, Official Assignee of this court, the 3rd respondent herein and upon reading the Judges Summons and affidavit of Gautham N.Mahububani filed herein and the report of the Official Assignee dated 02.02.2017, filed herein,

THE COURT MADE THE FOLLOWING ORDER :-.

The applicant debtor has filed this application in I.P.No.28 of 2014. I.P.No.28 of 2014 had been filed by the petitioning creditors, stating that they had obtained a decree in O.S.No.7241 of 2012 on the file of the XV

Additional City Civil Court, Chennai and since, the present applicant did not satisfy with the decree, they had filed insolvency notice in I.N.No.101 of 2013. The amount was not paid. The insolvency notice was not discharged. Consequently, this I.P. Was filed.

2. This Court had passed an order on 17.11.2014 adjudicating the present applicant as an insolvent. I am not going into the facts of the case, since it has been stated that applicant herein had paid the amounts due to the creditor. Counsel for the petitioning creditor also acknowledges the same. The applicant had been adjudicated as an insolvent. The applicant also states that he is prepared to pay 7% Government Commission to the Official Assignee, in view of the expenses incurred by them. The applicant states that he has actually paid such amount. The Official Assignee has also concurred with such arrangement.

3. In view of the same, the order of adjudication dated 17.11.2014 passed in I.P.No.28 of 2014 against the applicant Gouthama N Mahabubani, S/o. N.K.Mahabubani residing at No.15, VGP South Avenue, Panayur, Chennai - 600 119 is annulled.

4. This application is allowed. It is also mentioned that a sum of Rs.1,00,000/- is lying with the office of the Official Assignee. The Official Assignee is directed to

return back the said sum of Rs.1,00,000/- to Rahim Sattar Ghouse Shariff, S/o. Late Haji R.A.Sattar Sahib on proper acknowledgement and identification.

WITNESS, THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 11TH DAY OF AUGUST 2017.

sd/-

ASSISTANT REGISTRAR(O.S.I)

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2017

MANAGER

INSOLVENCY OFFICE

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

cns-21.08.2017

HIGH COURT, MADRAS

APPLN.No.5 OF 2017

IN

I.P.NO.28 OF 2014

THE HON'BLE MR.JUSTICE

C.V.KARTHIKEYAN

ORDER DATED:11.08.2017

FOR APPROVAL: 22/08/2017

APPROVED ON : 22/08/2017

COPY TO:-

THE OFFICIAL ASSIGNEE
HIGH COURT, MADRAS.