

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Insolvency Petition No.16 of 2017

M/s.Thangam Agencies
Rep. By its Partner,
Mr.B.V.Thangavel,
140/221, E.B.P.Nagar,
Manickampalayam,
Veerappan Chattaram (P.O),
Erode - 638 004.

... Petitioning Creditor

Vs.

K.Paramasivam

... Debtor

PRAYER: Petition filed under Section 9 to 13 of the Presidency Towns Insolvency act, III of 1909 and Order III-A of the Insolvency Rules, 1958 praying (i) to treat this Petition as urgent; (ii) to adjudicate the Respondent Debtor as Insolvent; (iii) to direct that the estate of the Debtor be vested in the Official Assignee of Madras, for the benefit of the general body of creditors of the Respondent debtor; (iv) to order that the costs of this petition be paid by the Official Assignee of Madras, from and out of the estate of the Debtor to the Petitioning Creditor.

For Petitioning Creditor : Mr.S.V.Pravin Rathinam

J U D G M E N T

This Insolvency Petition is filed under Sections 9 to 13 of the Presidency Towns Insolvency Act, to adjudicate the Debtor as Insolvent and to direct the estate of the debtor to be vested in the Official Assignee for the benefit of the general body of creditor.

2. The petitioning creditor has supplied goods viz., palmolein for a value of Rs.4,99,88,400/- under an invoice dated 22.02.2016 after giving credit to the payment made, there is a balance of Rs.3,22,65,945/- due and payable by the debtor to the petitioning creditor. The said liability has also been admitted by the debtor by way of certified Accounts Statement.

3. Despite several demands made, the debtor has not come forward to pay the money. On 05.07.2017, it appears that the debtor has sent a letter to the petitioning creditor expressing his inability to pay the amount outstanding. Claiming that this amount to an act of insolvency, the petitioning creditor has filed this petition under Section 9 to 13 of the Presidency Towns Insolvency Act, 1909. Despite notice having been served, the debtor did not appear and the debtor was set exparte and the Insolvency Petition was posted before the learned Master for letting in evidence.

4. One Mr.B.V.Thangavel had filed his proof affidavit and also been examined as PW1. The following documents have been produced by the said witness:

Exhibits	Documents
Ex.P1	Certificate of registration of the petitioning creditor dated 01.04.2014.
Ex.P2	Certified copy of the Accounts Statement issued by the debtor for the period from 01.04.2015 to 31.03.2016, 01.04.2016 to 30.09.2016 and 01.04.2016 to 31.03.2017.
Ex.P3	Photocopy of the letter dated 10.04.2016 from the petitioner to the respondent debtor.
Ex.P4	Photocopy of the letter dated 10.10.2016 from the petitioner to the respondent debtor.
Ex.P5	Photocopy of the letter dated 07.04.2017 from the petitioner to the respondent debtor.
Ex.P6	Photocopy of the letter dated 15.04.2017 from the petitioner to the respondent debtor.
Ex.P7	Photocopy of the letter dated 16.05.2017 from the petitioner to the respondent debtor.
Ex.P8	Photocopy of the letter dated 02.06.2017 from the petitioner to the respondent debtor.
Ex.P9	Original letter dated 05.07.2017 from the respondent debtor to the petitioner.

5. A perusal of Ex.P9 would show that the respondent debtor has expressed his inability to pay the amount outstanding. It is also seen that he has not disputed the correctness of the claim of the petitioning creditor. Hence, from the above oral and documentary evidence it is seen that the debtor has committed an act of insolvency and liable to be adjudicated as an Insolvent.

R.SUBRAMANIAN, J.

dsa

6. The debtor is adjudicated as Insolvent. The estate of the debtor shall vest with the Official Assignee for the benefit of the general body of creditor of the debtor. The costs of this petition shall be paid by the Official Assignee from and out of the estate of the debtor to the creditor. The insolvent is granted 18 months time to apply for discharge.

7. In fine, this Insolvency Petition is allowed.

13.11.2017

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Index : Yes/ No

Internet : Yes/ No

Speaking Order/ Non-speaking Order

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