

Application No.188 of 2017
in I.P.No.181 of 1997

R.SURESH KUMAR, J.

This application has been filed with the prayer to condone the delay of 6930 days in filing the petition to discharge unconditionally the applicant.

2. In this regard, learned Official Assignee has filed a detailed report dated 28.03.2019, where the Official Assignee discloses that previously the applicant filed three discharge applications in A.Nos.159 of 1999, 169 of 2001 and 603 of 2002, before this Court and all these applications had been dismissed then and there ie., on 06.10.1999, 01.10.2001 and 30.12.2002 respectively.

3. Therefore, this is the fourth application to discharge, where, according to the applicant, there has been a huge delay of 6930 days and therefore the present application has been filed. In this regard, it is the stand of the Official Assignee that under Section 42 of the Presidency Towns Insolvency Act, 1909, if the Court refuses the discharge of the insolvent it may, after such time and in such circumstances, as may be prescribed, permit him to renew his application. Quoting this Section as well as Order VIII Rule 4 of the

Rules made therein, the learned Official Assignee has made a formal statement in the said report dated 28.03.2019 in paragraphs 15, 16 and 17 of the report, which reads as follows,

"15. First of all, condone delay petition is not at all required in this case for the reasons that already the insolvent had already filed Applications for Discharge in Applications Nos.159/1999, 169/2001 and 603/2002 before this Honourable Court and the same have been dismissed by order dated 06.10.1999, 01.10.2001 and 30.12.2002 respectively. Thereafter, the present application has been filed.

16. It is respectfully submitted that by perusing the Presidency Towns Insolvency Act, 1909, it has been found that Section 42 of the PTI Act is the relevant portion for this application and the same is extracted hereunder:

42. Renewal of application and variation of terms of order:-

(1) Where the Court refused the discharge of the insolvent, it may, after such time and in such circumstances as may be prescribed, permit him to renew his application."

4. In view of the said stand taken by the Official Assignee, of course, on the basis of the legal position, this Court is of the view that the present application to condone the delay may not be necessitated for the applicant to pursue, as his application for discharge can be pursued on merits and it is for the Court to decide whether the discharge application, which is the fourth one after a long gap of 15 years, is to be accepted or not.

5. Accordingly, this application is dismissed as unnecessary. However, the dismissal of this application will not preclude the applicant to pursue the main application to discharge, if it is otherwise in order. Post the other applications along with the Insolvency Petitions for hearing on 08.04.2019.

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