

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Insolvency Petition Nos.31 to 33 of 2016

Ajay A.Bajaj, carrying on business under the name and style of Elite Enterprises at No.B-8, Sidhpura Industrial Estate, L.B.S.Marg, Ghatkopar (W), Mumbai - 400 086 and staying at No.12, Bank Street, Kilpauk, Chennai - 600 010.

... Petitioning Creditor in I.P.No.31 of 2016

Ashok Agencies, carrying on business at No.B-8, Sidhpura Industrial Estate, L.B.S.Marg, Ghatkopar (W), Mumbai - 400 086, rep. By its Parter, Ashok L.Bajaj, now staying at No.12, Bank Street, Kilpauk, Chennai - 600 010.

... Petitioning Creditor in I.P.No.32 of 2016

Madhu A.Bajaj, carrying on business under the name and style of Transcore Industries at No.B-8, Sidhpura Industrial Estate, L.B.S.Marg, Ghatkopar (W), Mumbai - 400 086 and staying at No.12, Bank Street, Kilpauk, Chennai - 600 010.

... Petitioning Creditor in I.P.No.33 of 2016

Vs.

V.Kumaravel

... Debtor in all the Insolvency petitions

PRAYER IN ALL THE I.P's : Petitions filed under Sections 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 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 creditor of the 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.T.Srikanth
For Debtor : Ms.Y.Kavitha

COMMON JUDGMENT

These Insolvency Petitions are filed under Sections 9 to 13 of the Presidency Towns Insolvency Act, to adjudicate the debtor as Insolvent for having committed an act of insolvency within the meaning of Section 9(2) of the Presidency Towns Insolvency Act, 1909 and to direct the estate of the debtor to be vested in the Official Assignee for the benefit of the general body of creditors in all the Insolvency Petitions.

2. It is averred by the petitioning creditors that the debtor had owed money to the petitioning creditors and the petitioning creditor in I.P.No.31 of 2016 has instituted a suit in O.S.No.7085 of 2014, the petitioning creditor in I.P.No.32 of 2016 has instituted a suit in O.S.No.7084 of 2014 and the

petitioning creditor in I.P.No.33 of 2016 has instituted a suit in O.S.No.7089 of 2014 on the file of the City Civil Court, Chennai and all the three original suits were decreed on 08.04.2015.

3. Despite the decree, the debtor did not come forward to pay the money due under the decree. The petitioning creditor in I.P.No.31 of 2016 has filed an Insolvency Notice in I.N.No.6 of 2016, the petitioning creditor in I.P.No.32 of 2016 has filed an Insolvency Notice in I.N.No.8 of 2016 and the petitioning creditor in I.P.No.33 of 2016 has filed an Insolvency Notice in I.N.No.7 of 2016 before this Court for issue of insolvency notice to the debtor, upon the said applications being ordered, the insolvency notices have been issued and the same were served on the debtor on 23.04.2016.

4. Despite 35 days period for compliance of the insolvency notice having expired, the debtor has not come forward to pay the money. Upon service of notice in these Insolvency Petitions, the debtor had appeared through counsel and had filed affidavits dated 08.12.2016 in each of the Insolvency Petitions, undertaking to remit the decree amount. Despite such an undertaking no amount has been paid.

5. Mrs.Y.Kavitha, learned counsel for the debtor would submit that she has no instruction from the debtor. Therefore, the debtor is set exparte.

6. In view of the averments made in the Insolvency Petitions, and the fact that the suits filed by the petitioning creditors have been decreed, it is clear that the debtor has committed an act of insolvency within the meaning of Section 9(2) of the Presidency Towns Insolvency Act, 1909 and therefore he is liable to be adjudicated as insolvent.

7. Hence, 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 creditors 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 creditors. The insolvent is granted 18 months time to apply for discharge.

8. In fine, these Insolvency Petitions are allowed.

13.11.2017

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Index : Yes/ No

Internet : Yes/ No

Speaking Order/ Non-speaking Order

R.SUBRAMANIAN, J.

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**COMMON JUDGMENT
IN**

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