

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2017

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Insolvency Petition No.12 of 2017

Kishore Gokaldas, H.U.F.,
Rep. by its Manager and Kartha
Kishore Kumar Gokaldas
No.5, Ground Floor,
Bishop Wallers Avenue (East)
Mylapre, Chennai - 600 004.

... Petitioning Creditor

Vs.

V.Kumaravel

... 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 (a) to treat this Petition as urgent; (b) to adjudicate the Debtor as Insolvent; (c) 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; (d) 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.Skandhakumaar

For Debtor : No appearance

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 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;

2. Despite service the debtor has not entered appearance either in person or through counsel. The counsel who undertook to file vakalat as early as on 31.10.2017 has not entered appearance. Hence, the Debtor called absent and set exparte.

3. The debtor took money from the petitioning-Creditor. Since he failed to repay the amount, the Creditor had filed a suit in C.S.No.307 of 2015 in this Court for recovery and the suit was decreed on 13.08.2015.

4. Since the Debtor, despite the decree, failed to pay the decree amount, the Creditor had filed an application in I.N.No.6 of 2017 seeking issuance of insolvency notice. The insolvency notice was served on the debtor on 22.03.2017. Even after such service, the Debtor has failed to comply with the said notice and the 35 days period specified in the

insolvency notice for compliance has also expired. The Debtor, has therefore, committed acts of insolvency within the meaning of Section 9(2) of the Presidency Towns Insolvency Act, commencing from 17.07.2017 (date of filing of the petition).

5. The amount due from the debtor to the creditor as per insolvency notice is Rs.32,53,418.47/-, and the same with interest workout to Rs.33,03,418.17/- as on the date of filing of the insolvency petition. The Creditor therefore seeks an order to declare the debtor as insolvent.

6. Though, notice served on the Debtor, there is no representation on his behalf, hence set exparte.

7. In view of the fact that the debt based on which the insolvency petition has been filed is decreed debt and the fact that the insolvency notice has not been complied with. 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 the Creditor of the Debtor. The costs of this petition shall be paid by the Official Assignee from and out of the estate of the

R.SUBRAMANIAN, J.

dsa

Debtor to the Creditor. The insolvent is granted 18 months time to apply for discharge.

8. In fine, this Insolvency Petition is allowed.

11.12.2017

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Index : Yes/ No

Internet : Yes/ No

Speaking Order/ Non-speaking Order

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