IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

MONDAY, THE 12TH DAY OF FEBRUARY 2018

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

APPLN. No.187 of 2017
in
IP. No.211 of 2002

In the matter of the Presidency Towns Insolvency Act, (1) of 1909 and In the matter of V.Suresh and B.S.Somasundari

... Petitioners/Debtors

1. V.Suresh
   S/o.C.S.Viswanathan
2. B.S.Somasundari
   W/o.V.Suresh
   residing at No.21/11, Rajaji Nagar,
   II Street, Villivakkam,
   Chennai-600 049. ... Petitioners/Debtors

Appln. No.187 of 2017

1. V.Suresh
   S/o.C.S.Viswanathan

2. B.S.Somasundari
   W/o.V.Suresh
   residing at No.26/2, Rajaji Nagar,
   III Street, Villivakkam,
   Chennai-600 049. ... Applicants/Insolvents

-Versus-

The Official Assignee,
High Court Buildings,
Madras - 600 104. ... Respondent

Application praying that this Hon'ble Court be pleased to grant unconditional discharge to the applicants.

On the application of 1. V.Suresh, S/o.C.S.Viswanathan, 2. B.S.Somasundari, W/o.V.Suresh, residing at No.26/2, Rajaji Nagar, III Street, Villivakkam, Chennai - 600 049 adjudged as insolvent on 31st day of October 2002 and upon taking into consideration of the report of the

Official Assignee as to the insolvent's conduct and affairs and upon hearing Mr.J.Balagopal, advocate for the Applicants / Insolvents and the Official Assignee, the respondent herein.

And whereas it has not been proved that the insolvent has committed any act constituting an offence under Section 421-424 of the Indian Penal Code or under the Presidency Towns Insolvency Act 1909 and proof has not been made of any of the facts and circumstances mentioned in sub section (2) of Section 39 or Section 44 of the said act, or that the insolvent has been guilty of any misconduct in relation to their affairs, **it is ordered:-**

That 1)V.Suresh 2)B.S.Somasundari, the insolvents herein be and are hereby discharged unconditionally from all debts provable in this insolvency except such as are mentioned in sub-section(1) of Section 45 of the Act aforesaid.

WITNESS, THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 12TH DAY OF FEBRUARY 2018.

sd/-

ASSISTANT REGISTRAR(O.S.I)

//CERTIFIED TO BE TRUE COPY//

DATED THIS THE DAY OF 2018

MANAGER
INSOLVENCY OFFICE

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cns-22.02.2018

HIGH COURT , MADRAS

APPLN. No.187 of 2017
in
I.P No.211 of 2002

THE HON'BLE MR.JUSTICE

R.SUBRAMANIAN

DECREE DATED: 12/02/2018

FOR APPROVAL: 26/02/2018

APPROVED ON : 26/02/2018

COPY TO:

THE OFFICIAL ASSIGNEE
HIGH COURT,MADRAS.

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-Versus-

The Official Assignee,
High Court Buildings,
Madras – 600 104. ... Respondent

Application praying that this Hon'ble Court be pleased to grant unconditional discharge to the applicants.

The above application coming on this day before this court for hearing in the presence of Mr.J.Balagopal, advocate for the Applicants / Insolvents and the Official

Assignee, the respondent herein and upon reading the Judges summon and affidavit of V.Suresh and report of the Official Assignee filed herein,

The Court made the following order:-

This application has been taken out by the insolvents seeking unconditional discharge.

2.There are two claims preferred before the Official Assignee made by M/s. Narasimhan and Annadurai. The insolvents have produced the order of the 13th Metropolitan Magistrate made in C.C.No.10054 of 2002 which was filed by Narasimhan represented by Annadurai against the insolvents under Section 138 of the Negotiable Instruments Act, 1881, seeking to punish them for dishonor of the cheque. The said order reveals that the said complaint has been withdrawn by the complainant, pursuant to a settlement reached between the parties, and the entire amount due under the cheque has been paid to the complainant.

3.Mr.J.Balagopal, learned counsel appearing for the applicants/petitioners would submit that, both the claims arise, out of one and the same transaction and now that the claim of Narasimhan has been settled, there is no other debt due. Hence, he seeks an order of discharge. The Official Assignee would submit that the notices sent to both the creditors were returned unserved. An affidavit has been filed by the insolvents, that both the claims before the Official Assignee relate to one and the same debt which has been the subject matter in C.C.No.10054 of 2002 which

was dismissed as withdrawn by an order dated 12.01.2005. The said statement made in the affidavit which reads as follows:

> 2. "I state that my liability to my creditors Annadurai and Narasimhan are one and the same and their entire liability is settled towards one time settlement before the 13th Metropolitan Magistrate Court, Egmore, in the year 2005 itself in C.C.No.10054 of 2002 by an order dated 12.01.2005. "

Recording the said statement, the application for discharge is allowed.

WITNESS, THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 12TH DAY OF FEBRUARY 2018.

sd/-

ASSISTANT REGISTRAR(O.S.I)

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