

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 12.03.2018****CORAM****THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN****Insolvency Petition No.1 of 2018**

Sanjaykumar Ambalal, HUF,
a Hindu Undivided Family Firm
Rep.by its Manager & Kartha,
Sanajay Kumar,
45, Thatha Muthiappan Street,
Sowcarpet,
Chennai-600 079.

... Petitioner/Creditor

Vs.

1.Dr.T.Arunkumar

2.Mrs.A.Bhuvaneswari

... Debtors

(Both residing at No.28/40,
Ranga Road, Abhiramapuram,
Chennai-600 004).

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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
Debtors as an Insolvent; (iii) to direct that the estate of the Debtors be

vested in the Official Assignee of Madras, for the benefit of the general body of creditors of the Debtors; (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 Debtors to the Petitioning Creditor.

For Petitioning Creditor : T.Srikanth

For Debtors : 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 debtors as Insolvents and to direct the estate of the debtors to be vested in the Official Assignee for the benefit of the general body of creditor of the debtors.

2.The debtors had borrowed monies from the petitioning creditor. Since they failed to repay the money, the petitioning creditor has instituted a suit in O.S.No.5176 of 2014 on the file of the City Civil Court, Chennai. The said suit was decreed on 05.03.2015. Despite the decree, the debtors have not come forward to pay the decreed amount.

Claiming that the non-payment would amount to an act of insolvency, the petitioning creditor had filed an application in I.N.No.12 of 2017 before this Court, and this Court ordered issuance of insolvency notice. Pursuant to the said order, the insolvency notice was sent to the debtors by registered post acknowledgment due, and the same was duly served on 10.07.2017. Even after such service, the debtors have not complied with the same by making payment. The 35 days period specified in the insolvency notice has also expired. Claiming that the said non-payment amounted to an act of insolvency within the meaning of Section 9(2) of the Presidency Towns Insolvency Act, III of 1909. , the petitioning credit has come forward with this Insolvency Petition.

3.The amount due and payable by the debtors on the date of the insolvency notice dated 10.02.2017 on the date of filing of the petition would amount to Rs.84,464/-. Though, the debtors were served with notice of this insolvency petition, they have not chosen to appear and defend themselves. Since, the insolvency petition itself is based on decreed debt, the requirement of evidence is dispensed with.

4.The debtors are adjudicated as insolvents. The estate of the debtors shall vest with the Official Assignee for the benefit of the general body of creditors. The costs of this petition shall be paid by the Official Assignee out of the estate of the debtors to the creditor. The debtors/insolvents are granted 18 months time to apply for discharge.

5.In fine, this Insolvency Petition is allowed.

12.03.2018

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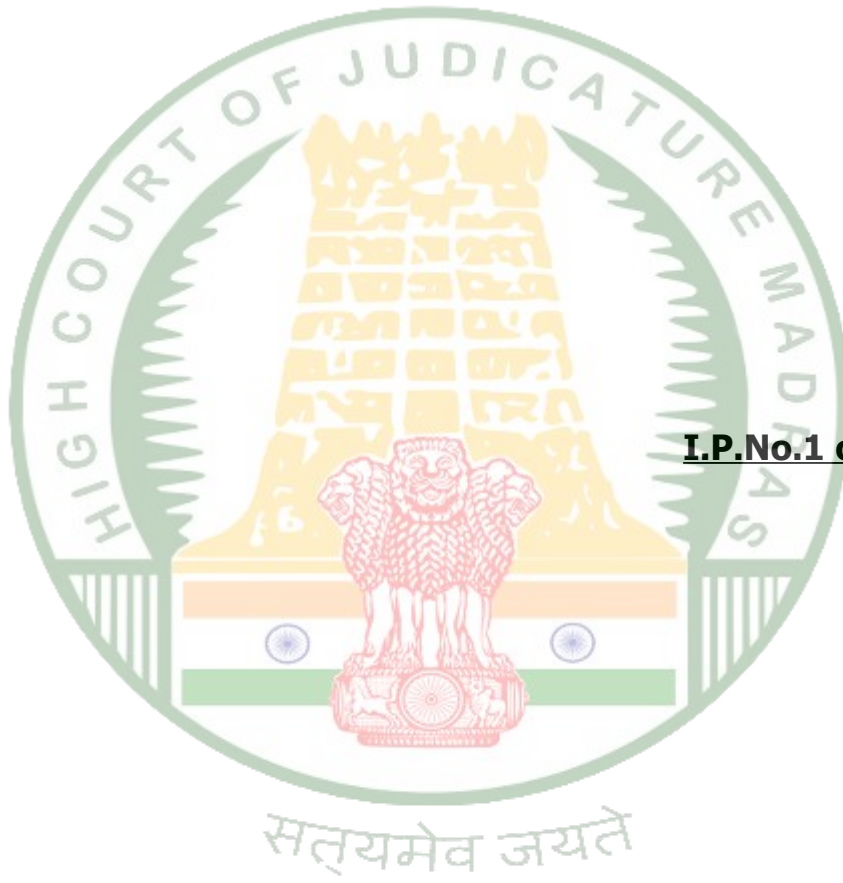
Internet : Yes

Speaking Order



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R.SUBRAMANIAN, J.



I.P.No.1 of 2018

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12.03.2018