

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2018

CORAM

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

Insolvency Petition No.20 of 2017

M/s. Marudhamalai Murugan Industries (P) Ltd.,
Represented by its Director,
Mrs.S.Saradha,
14/1 & 51 to 57, Ingur-638 058,
Perundurai (via), Erode District.

... Petitioning Creditor

Vs.

S.Arunachalam

... Debtor

PRAYER: Petition filed under Section 9 to 13 of the Presidency Towns Insolvency Act, 1909 and Order III of the Insolvency Rules, 1958 praying (i) to treat this Petition as urgent; (ii) to adjudicate the Respondent Debtor as an Insolvent; (iii) to direct that the estate of the Respondent Debtor be vested in the Official Assignee of Madras, for the benefit of the general body of Creditors of the Respondent 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.Vignesh Venkat

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 the estate of the debtor be vested in the Official Assignee for the benefit of the general body of creditor of the debtor.

2.The debtor has borrowed a sum of Rs.12,50,000/- from the Petitioning Creditor as a short term loan on 26.10.2016. Despite several demands, the debtor has not repaid the money. On 06.07.2017, the debtor has written to the Petitioning Creditor stating that he is unable to clear the outstanding debt, and had requested the Petitioning Creditor to receive a sum of Rs.50,000/- in full quits of the liability. According to the Petitioning Creditor, the ultimatum letter dated 06.07.2017 itself amounts to an act of insolvency within the meaning of Section 9(1)(g) of the Presidency Towns Insolvency Act, 1909.

3.Notice was ordered in this petition on 06.11.2017, the debtor was served on 13.11.2017. Despite service, the debtor has not chosen to enter appearance. The Director of the Petitioning Creditor was examined as PW-1. She has filed proof affidavit and marked Exs.P-1 to P-7. From the oral and documentary evidence, it is seen that the

debtor has committed an act of insolvency within the meaning of Section 9(1)(g) of the Presidency Towns Insolvency Act, 1909, rendering himself liable to be adjudicated as insolvent.

4. In view of the averments made in the Insolvency Petition, evidence of PW-1 and the exhibits marked. I am of the view that the debtor has committed an Act of Insolvency and therefore, he is liable to be adjudicated as insolvent.

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

6. In fine, the Insolvency Petition is allowed.

08.01.2018

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R.SUBRAMANIAN,. J.

KP



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