

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2018

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Insolvency Petition No.23 of 2017

Rajendrakumar K.Jain

... Petitioning Creditor

Vs.

Meenakshi Sundaram,
carrying on business under the
name and style of Vasantha Enterprises,
New NO.11, Old No.14,
Jakkammal Koil Street,
Postal Audit Colony,
Chinamaya Nagar,
Chennai - 600 092

... 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 Debtors 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. Earlier, on 01.04.2018, paper publication has been issued to the Debtor. When the matter was taken up for hearing on 23.04.2018, the learned counsel appearing for the petitioning creditor filed affidavit of service and the name of the Debtor was also printed in the cause list. Despite the same, the debtor has not entered appearance either in person or through counsel and hence, the Debtor called absent and set exparte on that day.

3. The Debtor took money from the petitioning-Creditor. Since they failed to repay the amount, the Creditor had filed a suit in O.S.No.1389 of 2013 on the file of the City Civil Court, Chennai for recovery of money and exparte decree was passed in that suit on 13.08.2013 . But, so far the debtor has not paid the decree amount and he has not taken any steps to set aside the exparte decree and hence, the said decree has

become final.

4. Since the Debtor, despite the decree, failed to pay the decree amount, the Creditor had filed an application in I.N.No.10 of 2017 seeking issuance of insolvency notice and notice was also served on them. Subsequently, paper publication has also been effected. Even after that, the Debtor had failed to comply with the said notice and the 35 days period specified in the insolvency notice for compliance has also expired. The Debtors, had therefore, committed acts of insolvency within the meaning of Section 9(2) of the Presidency Towns Insolvency Act, commencing from 10.11.2017 (date of filing of the petition).

5. The amount due from the debtor to the creditor as per insolvency notice is Rs.46,695/-, and the same with interest workout to Rs.49,095/- as on the date of filing of the insolvency petition. The Creditor therefore seeks an order to declare the debtor as insolvent.

6. 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

<http://www.judis.nic.in> shall be paid by the Official Assignee from and out of the estate of the

V.BHARATHIDASAN, J.,

mrp

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

8. In fine, this Insolvency Petition is allowed.

18.06.2018

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Index : Yes/ No

Internet : Yes/ No

Speaking Order/ Non-speaking Order

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