

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

MONDAY, THE 5TH DAY OF FEBRUARY 2018

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

INSOLVENCY PETITION NO.22 of 2017

In the matter of Presidency
Towns Insolvency Act, III of
1909 and In the matter of
T.Arunkumar & another
... Debtors

Sureshkumar S.Jain, carrying
on business under the name and
style of Suresh Enterprise,
No.26, Chinna Thambi Mudali Street,
3rd Floor, Sowcarpet,
Chennai 600 079.

... Petitioning Creditor

-Versus-

1.Dr.T.Arunkumar

2.A.Bhuvaneswari,
Both residing at No.28/40,
Ranga Road, Abhiramapuram,
Chennai 600 004.

... Debtors

Insolvency Petition praying that this Hon'ble court be
pleased to (a) adjudicate the debtors as Insolvents (b)
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. (c) order that the
costs of this petition paid by the Official Assignee of
Madras, from and out of the estate of the debtors to the
petitioning creditor.

The above insolvency petition coming on this day before
this court for hearing in the presence of Mr.Srikanth,

advocate for the petitioning creditor herein and the debtors herein not appearing in person or by advocate and upon reading the petition and affidavit of Sureshkumar S.Jain, filed herein, **It is ordered as follows:**

1) That 1.Dr.T.Arunkumar, 2.A.Bhuvaneswari, Both residing at No.28/40, Ranga Road, Abhiramapuram, Chennai 600 004 be and are hereby adjudicated as Insolvents.

2) That the said insolvents do appear before the Official Assignee of this Court within one week from the date of service of this order;

3) That the said insolvents do file in this Court their schedule of affairs together with a copy thereof within thirty days from the date of service of this order;

4) That the said insolvents shall apply for their discharge within a period of 18 months from this date;

5) That the estate of the debtors shall vest with the Official Assignee of the High Court at Chennai, for the benefit of the general body of the creditor. The cost of this petition shall be paid by the Official Assignee from and out of the estate of the debtors.

6) That the said Official Assignee do from and out of

the estate of the insolvents herein pay to the said Petitioning Creditor their costs of this petition, when taxed by the Taxing Officer of this Court and noted in the margin thereof, with interest thereon at the rate of six percent per annum from the date of taxation to the date of realisation.

WITNESS, THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 5th DAY OF FEBRUARY 2018.

sd/-
ASSISTANT REGISTRAR
Original Side - I

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2018

MANAGER
INSOLVENCY OFFICE

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cns - 20.01.2018

HIGH COURT, MADRAS

I.P. No.22 of 2017

ADJUDICATION DECREE TAL

ORDER DATED : 05.02.2018

THE HON'BLE MR. JUSTICE

R.SUBRAMANIAN

FOR APPROVAL : 22/02/2018

APPROVED ON : 22/02/2018

Copy to :

The Official Assignee
High Court, Madras.

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costs of this petition paid by the Official Assignee of
Madras, from and out of the estate of the debtors to the
petitioning creditor.

The above insolvency petition coming on this day before
this court for hearing in the presence of Mr.Srikanth,

advocate for the petitioning creditor herein and the debtors herein not appearing in person or by advocate and upon reading the petition and affidavit of Sureshkumar S.Jain, filed herein,

THE COURT MADE THE FOLLOWING ORDER :

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

2. The debtors have borrowed monies from the Petitioning Creditor. Since the debtors did not repay the money, the Petitioning Creditor has filed a suit in O.S.No.5164 of 2014 on the file of the City Civil Court, Chennai. The suit was decreed on 05.03.2015.

3. Even after passing the decree the debtors failed to pay the decree amount. Hence, the Petitioning Creditor has filed an application in I.N.No.13 of 2017 for issuance of Insolvency Notice to the Debtors. This Court had directed issuance of Insolvency Notice to the Debtors and the insolvency notice issued pursuant to the order of this Court were served on the debtors on 26.09.2013. Even after such service the debtors have failed to comply with the said notice and 35 days time granted for compliance has

also expired.

4. Hence, the Petitioning Creditor has come forward with this Insolvency Petition contending that the debtors have committed an act of insolvency within the meaning of Section 9(2) of Presidency Towns Insolvency Act, 1909.

5. The amount payable by the debtors as on the date of filing of the petition works out to Rs.84,464/-. The debtors though served have not appeared before this Court either in person or by the counsel duly instructed. Hence, the Debtors are set exparte.

6. The Creditor has filed the decree obtained by him in O.S.No.5164 of 2014 and the copy of the Insolvency notice have been served on the debtors.

7. In view of the above, it is clear that the debtors have committed an act of insolvency within the meaning of Section 9(2) of Presidency Towns Insolvency Act, 1909 rendering themselves liable to be adjudicated as insolvents.

8. Hence, the Debtors are adjudicated as Insolvents and the estate of the debtors 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 debtors to the Creditor. The Debtors are granted 18 months time to apply for discharge.

9. In fine, the Insolvency Petition is allowed.

WITNESS, THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 5th DAY OF FEBRUARY 2018.

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