

I.P.No.42 of 2000

PUSHPA SATHYANARAYANA, J

Heard the learned Official Assignee and the learned counsel for the second respondent (petitioning creditor).

2. The learned Official Assignee has filed a report dated 14.08.2019, wherein, it is stated that the Debtor, viz., Pramod Kumar S.Nivetia was adjudicated as an insolvent, by order dated 04.09.2000. The act of insolvency arose on the ground of non- payment of decretal debt. After adjudication, the learned Official Assignee has sent a notice to the petitioning creditor and also a letter to the learned counsel for the petitioning creditor, calling upon them to appear before the Office of the Official Assignee for enquiry, but the said notice returned with endorsements "No such person". Thereafter, one more letter was sent to another address of the learned counsel for the petitioning creditor to appear before the learned Official Assignee on 23.11.2017 for enquiry. Subsequently, the learned counsel for the petitioning creditor appeared before the Office of the learned Official Assignee and sought time for getting status of the case and whereabouts of the insolvent. Hence, the matter was adjourned to

06.02.2018, however, the counsel did not appear for the said enquiry. The learned counsel for the petitioning creditor sent an e-mail dated 07.02.2018 to the learned Official Assignee stating that he had given change of vakalat.

3. It is further stated that the insolvent failed to file the schedule of affairs disclosing his liability before this Court. The liability of the insolvent towards the petitioning creditor as disclosed in the petition is for a sum of Rs.22,795/-. The petitioning creditor has filed a Claim Petition before the Office of the Official Assignee for a sum of Rs.2,33,674/- in Claim No.837 of 2000 on 18.09.2000. Other than this claim, no claims have been received in this estate. On 12.07.2019, the Chief Manager of the Petitioning Creditor-Bank had appeared before the Deputy Official Assignee along with his Counsel Mr.K.S.V.Prasad and requested time for searching the old records. Hence, the matter has been adjourned to 17.07.2019, on which day, there was no representation for the petitioning creditor.

4. On 31.07.2019, the Petitioning Creditor appeared before the Office of the learned Official Assignee for enquiry and stated that they could not trace out the records, since the transactions took place

two decades ago. He also stated that they were inclined to withdraw the claim petition on the instructions to be received from the higher authorities at Chennai. When the matter came up for enquiry on 06.08.2019, the Petitioning Creditor was present and made an endorsement in the claim petition that they intend to withdraw their claim petition. Thereafter, he has also filed a Memo signed by their Assistant General Manager Mr.G.K.Murthy stating that apart from withdrawing the claim petition, they also intend to withdraw the insolvency petition. According to the learned Official Assignee, no amount is available in this estate.

5. In view of the above report submitted by the learned Official Assignee and taking into account the fact that the Petitioning Creditor has withdrawn the claim petition, the adjudication dated 04.09.2000 against the insolvent is hereby annulled in accordance with Section 41 of the Presidency Towns Insolvency Act, 1909. This application is ordered accordingly.

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