

A.(IP)Nos.99 and 115 to 117 of 2019
in I.P.No.44 of 2010

PUSHPA SATHYANARAYANA, J.

The learned Official Assignee filed A.Nos.115 to 117 of 2019 seeking the following prayers respectively :

".. an order to accept the schedule of the insolvent's affairs filed by the Official Assignee.

.. an order directing the Official Assignee to make payment of Rs.90,000/- (Rupees Ninety Thousand only) to the claimant Thiru.T.Suresh, petitioning creditor and disburse the said amount to the petitioner creditor.

.. to annul the order of adjudication dated 18.01.2011 passed against the insolvent K.Siva under Section 41 of the Presidency Towns Insolvency Act."

2. The petitioning creditor filed A.No.99 of 2019 seeking a direction to the Official Assignee to disburse the sum of Rs.90,000/- (Rupees Ninety Thousand Only) in favour of the applicant, which is lying to the credit of I.P.No.44 of 2010.

3. The Official Assignee filed a report dated 19.07.2019 along with these applications to the effect that one K.Siva, the first respondent herein, has been adjudicated as insolvent by this Court

vide order dated 18.01.2001, which arose for non-payment of decretal debt. Pursuant to the said order, all the assets of the insolvent wherever situate vest with the Official Assignee for its realization and distribution among the general body of creditors. The respondent/debtor though entered appearance before this Court on some occasions, but failed to file the schedule of affairs, as required under Sections 41 & 23 of the Presidency Towns Insolvency Act, 1909 (in short, "1909 Act"). Since the insolvent failed to co-operate with the Official Assignee, steps have been taken by her for his arrest under Section 33 of the 1909 Act before the learned Master and for attachment of salary. Only thereafter, the insolvent on 26.04.2019 appeared before the Court and agreed to settle the matter. The petitioning creditor filed an affidavit restricting his claim for Rs.90,000/-. A Joint Compromise Memo dated 29.04.2019 was entered between the parties. Accordingly, the insolvent deposited a sum of Rs.98,300/- vide Receipt No.13341 dated 29.04.2019 in the office of the Official Assignee. The Official Assignee submitted that the said amount includes Rs.2,000/- towards administrative charges and Rs.90,000/- to be paid to the petitioning creditor, while Rs.6,300/- has to be paid as 7% Government Commission on the said amount.

4. According to the Official Assignee, the insolvent failed to file discharge application pursuant to the order of this Court within a period of 18 months from the date of adjudication. It is also stated that the insolvent also failed to file his schedule of affairs as required under Sections 41 and 23 of the 1909 Act. The liability of the insolvent towards the petitioning creditor, as agreed in the Joint Compromise Memo towards the claim Petition No75/2018 dated 10.04.2018, is Rs.90,000/-. There is no other claim petition filed by anyone towards this estate. Under the above circumstances, the Official Assignee seeks the aforesaid reliefs.

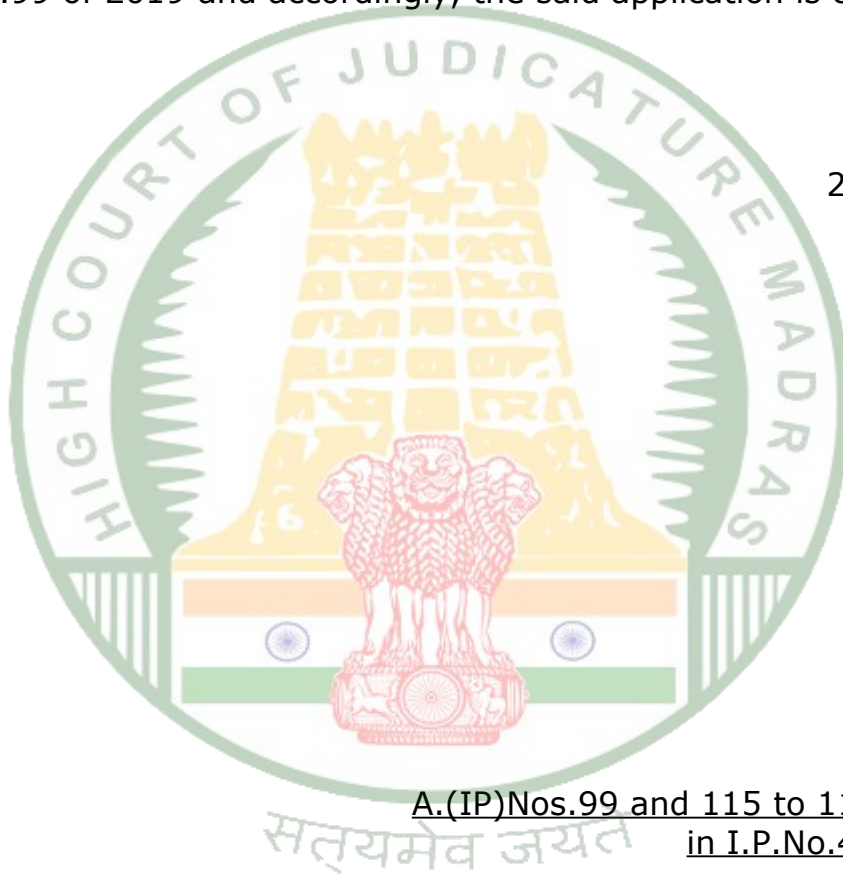
5. In view of the report submitted by the Official Assignee and taking into account the background facts, the schedule of the insolvent's affairs filed by the Official Assignee under Section 24(4) of the 1909 Act is accepted ; the Official Assignee is permitted to make payment of Rs.90,000/- to the petitioning creditor, Mr.T.Suresh, in terms of Section 7 of the 1909 Act ; and the order of Adjudication dated 18.01.2001 passed against the insolvent/debtor K.Siva is annulled in accordance with Section 41 of the 1909 Act.

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6. In fine, A(IP) Nos.115 to 117 of 2019 are ordered as prayed for. Consequent to the said order, no order needs to be passed in A.(IP)No.99 of 2019 and accordingly, the said application is closed.

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29.07.2019



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