

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

WEDNESDAY, THE 21ST DAY OF AUGUST 2019

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

APPLN.NO.141 OF 2019

IN

I.P. No.59 of 2013

I.P. No.59 of 2013

In the matter of Presidency
Towns Insolvency Act, III of
1909 and In the matter of
K.Venkatesan ...Debtor

Paresh P.Khatri,
S/o.Prakash,
Carrying on business at
No.401, "A" Block, Prince Manor,
114, Poonamallee High Road,
Chennai 600 010.

... Petitioning Creditor

... vs ...

K.Venkatesan,
Carrying on business under the
name and style of
Southern Tyre House at
No.AP-1613-103, III Street,
14th Sector, K.K.Nagar,
Chennai 600 078.

... Debtor

APPLN.NO.141 OF 2019

K.Venkatesh @ K.Venkatesan,
Carrying on business under the
name and style of
Southern Tyre House at
No.AP-1613-103, III Street,
14th Sector, K.K.Nagar,
Chennai 600 078.

Presently residing at
F2, 36, 3rd Floor,
6th Main Road,
Kurinji Apartments,
Mogapair Eri Scheme,
Chennai 600 037.

... Applicant / Debtor

.. vs ..

1.Paresh P.Khatri,
S/o.Prakash,
No.401, "A" Block, Prince Manor,
114, Poonamallee High Road,
Chennai 600 010. ... 1st Respondent/Petitioning Creditor

2.The Official Assignee,
High Court, Madras.

... 2nd Respondent

Application praying that this Hon'ble court be pleased to record the full satisfaction in the matter and pass annulment order of adjudication made in IP.NO.59 OF 2013 dated 16.06.2014.

The above application coming on this day before this court for hearing in the presence of Mr.N.Naganathan, advocate for the Applicant/Debtor herein; Mr.T.Srikanth, advocate for the 1st respondent/Petitioning Creditor herein and the Official Assignee of this court, the 2nd respondent herein; and the Report of the Official Assignee dated 19.08.2019 filed herein and

THE COURT MADE THE FOLLOWING ORDER :

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

2. Today, the learned Official Assignee has filed a report dated 19.08.2019. In the report, it is stated that the Debtor, viz., K.Venkatesh @ Venkatesan was adjudicated as an insolvent, by order dated 16.06.2014. The act of insolvency arose on the ground of non-payment of decretal debt of Rs.64,900/- together with interest based on the judgment rendered in O.S.No.3577 of 2010 dated 27.09.2010 on the file of IV Assistant Judge, City Civil Court, Chennai. According to the first respondent-petitioning creditor, the insolvent (debtor) is liable to pay a sum of Rs.83,541/-. After adjudication, the learned Official

Assignee has sent a Memo of Appearance to the insolvent by Special Messenger, calling upon him to appear before the Office of the Official Assignee on 29.07.2015. In spite of the same, the insolvent had not appeared before the learned Official Assignee. Thereafter, another notice was served on the insolvent to the present address through a Special Messenger, calling upon him to appear before the Office of the Official Assignee on 10.02.2016 for recording his statement. However, the said notice was not served upon the insolvent, since he was out of station and the order of adjudication was intimated to him over phone. Subsequently, the insolvent had remitted a sum of Rs.64,900/- being the decretal amount passed in the above said suit. In the meanwhile, the insolvent has filed this application in A.No.141 of 2019 seeking to annul the order of adjudication dated 16.06.2014. Till date, the insolvent has not filed the schedule of affairs disclosing his liability before this Court. The petitioning-Creditor has filed a claim petition in Claim No.178 of 2018 before the Office of the Official Assignee on 24.07.2018 claiming a sum of Rs.1,01,293/-.

3. The learned counsel appearing for the petitioning creditor had given a letter of undertaking dated 11.06.2019 to the learned Official Assignee stating that the claimant is ready to receive the available amount in the estate and he had given a full and final satisfaction towards the insolvency proceedings. The said claim was admitted by the

learned Official Assignee for a sum of Rs.1,03,140/-, by order dated 14.06.2019. Apart from the above said claim, no secured or unsecured claims were received by the Office of the Official Assignee.

4. In view of the above report submitted by the learned Official Assignee and taking into account the fact that the claimant is ready and willing to accept the available amount in the estate and had given full and final satisfaction towards the insolvency proceedings, the adjudication dated 16.06.2014 against the insolvent is hereby annulled in accordance with Section 21 of the Presidency Towns Insolvency Act, 1909. This application is ordered accordingly. The learned Official Assignee is directed to make the payment to the petitioning creditor.

WITNESS, THE HON'BLE SHRIMATI, VIJAYA KAMLESH
TAHILRAMANI, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID
THIS THE 21st DAY OF AUGUST, 2019.

सत्यमेव जयते

SD/-
ASSISTANT REGISTRAR
Original Side - I

WEB COPY

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2019

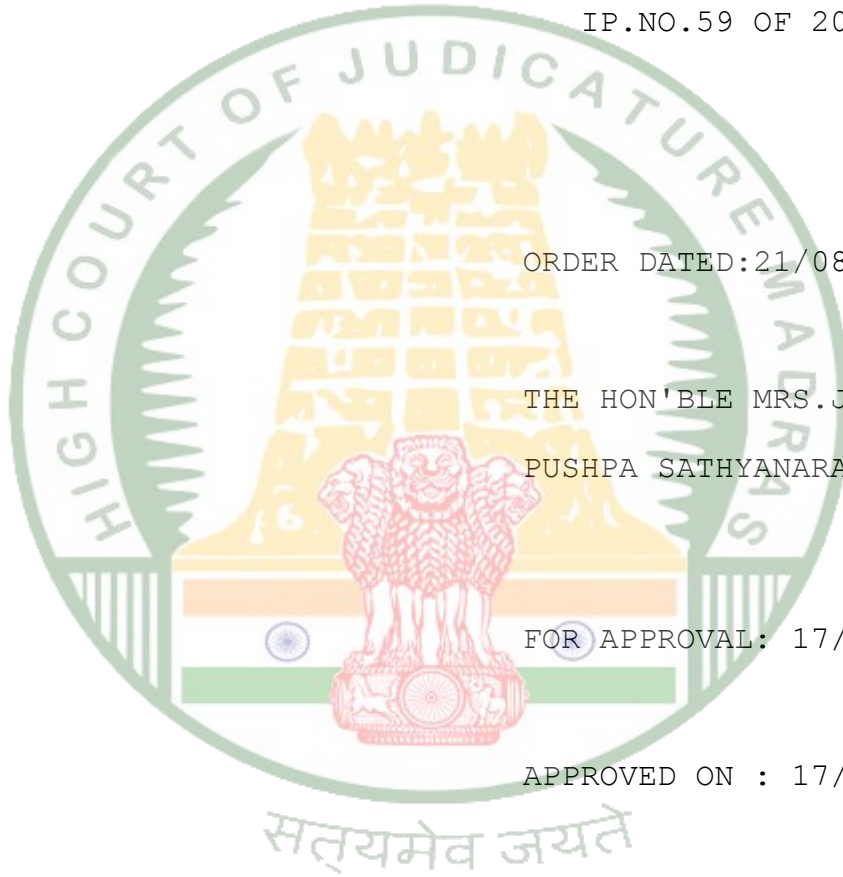
MANAGER
INSOLVENCY OFFICE

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

cns-29.08.2019

HIGH COURT, MADRAS

APPLN.NO.141 OF 2019
in
IP.NO.59 OF 2013



ORDER DATED:21/08/2019

THE HON'BLE MRS.JUSTICE
PUSHPA SATHYANARAYANA

FOR APPROVAL: 17/10/2019

APPROVED ON : 17/10/2019

COPY TO:-

WEB COPY
THE OFFICIAL ASSIGNEE
HIGH COURT, MADRAS.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

WEDNESDAY, THE 21ST DAY OF AUGUST 2019

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

APPLN.NO.141 OF 2019

IN

I.P. No.59 of 2013

I.P. No.59 of 2013

In the matter of Presidency
Towns Insolvency Act, III of
1909 and In the matter of
K.Venkatesan ...Debtor

Paresh P.Khatri,
S/o.Prakash,
Carrying on business at
No.401, "A" Block, Prince Manor,
114, Poonamallee High Road,
Chennai 600 010.

.... Petitioning Creditor

... vs ...

K.Venkatesan,
Carrying on business under the
name and style of
Southern Tyre House at
No.AP-1613-103, III Street,
14th Sector, K.K.Nagar,
Chennai 600 078.

...Debtor

APPLN.NO.141 OF 2019

K.Venkatesh @ K.Venkatesan,
Carrying on business under the
name and style of
Southern Tyre House at
No.AP-1613-103, III Street,
14th Sector, K.K.Nagar,
Chennai 600 078.

Presently residing at
F2, 36, 3rd Floor,
6th Main Road,
Kurinji Apartments,
Mogappair, Eri Scheme,
Chennai 600 037.

... Applicant / Debtor

.. vs ..

- 1.Paresh P.Khatri,
S/o.Prakash,
No.401, "A" Block, Prince Manor,
114, Poonamallee High Road,
Chennai 600 010. ... 1st Respondent/Petitioning Creditor
- 2.The Official Assignee,
High Court, Madras. ... 2nd Respondent

Application praying that this Hon'ble court be pleased to record the full satisfaction in the matter and pass annulment order of adjudication made in IP.NO.59 OF 2013 dated 16.06.2014.

The above application coming on this day before this court for hearing in the presence of Mr.N.Naganathan, advocate for the Applicant/Debtor herein; Mr.T.Srikanth, advocate for the 1st respondent/Petitioning Creditor herein and the Official Assignee of this court, the 2nd respondent herein; and the Report of the Official Assignee dated 19.08.2019 filed herein; and this Court in view of the report submitted by the learned Official Assignee and taking into account the fact that the claimant is ready and willing to accept the available amount in the estate and had given full and final satisfaction towards the insolvency proceedings and

IT IS ORDERED AS FOLLOWS :

(i)That the order of Adjudication made in IP.No.59 of 2013 and dated the 16th day of June 2014 against the ~~insolvent~~ K.Venkatesh @ K.Venkatesan, be and is hereby annulled.

(ii) That the Official Assignee be and is hereby directed to make the payment to the Petitioning Creditor.

WITNESS, THE HON'BLE SHRIMATI, VIJAYA KAMLESH
TAHILRAMANI, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID
THIS THE 21ST DAY OF AUGUST 2019.

SD/-

ASSISTANT REGISTRAR
Original Side - I

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2019

MANAGER
INSOLVENCY OFFICE

From 25th Day of September 2008 the Registry is issuing
certified copies of the Orders/Judgments/Decrees in this
format.

सत्यमेव जयते

WEB COPY

cns-17.10.2019

HIGH COURT, MADRAS

APPLN.NO.141 OF 2019
IN
IP.NO.59 OF 2013

ANNULMENT

ORDER DATED:21/08/2019

THE HON'BLE MRS.JUSTICE

PUSHPA SATHYANARAYANA

FOR APPROVAL: 17/10/2019

सत्यमेव जयते

APPROVED ON : 17/10/2019

WEB COPY

COPY TO:-

THE OFFICIAL ASSIGNEE
HIGH COURT, MADRAS.