

A.No.143 of 2019 in I.P.No.4 of 2017

PUSHPA SATHYANARAYANA, J

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 12.03.2018. The act of insolvency arose on the ground of non-payment of decretal debt of Rs.91,627/- together with interest based on the judgment rendered in O.S.No.3576 of 2010 dated 27.09.2010 on the file of the City Civil Court, Chennai. After adjudication, the learned Official Assignee has sent a Memo of Appearance to the insolvent through RPAD, calling upon him to appear before the Office of the Official Assignee for recording his statement. In spite of receipt of the notice, the insolvent had not appeared before the learned Official Assignee. Thereafter, enquiry notice was served on the insolvent through a Special Messenger and the same was acknowledged. Subsequently, the insolvent had remitted a sum of

Rs.30,000/- out of Rs.91,627/-, being the part payment of the decree amount passed in the above suit vide Receipt No.13021 dated 10.08.2018. He has also remitted the balance decretal debt of Rs.61,627/- to this office vide Receipt No.13121 dated 12.10.2018. The insolvent has also remitted 7% Government Commission and administrative expenses to this office. After making payment of Rs.91,627/-, the insolvent has filed this application in A.No.143 of 2019 seeking to annul the order of adjudication dated 12.03.2018. 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.179 of 2018 before the Office of the Official Assignee on 24.07.2018 claiming a sum of Rs.1,01,957/-.

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.1,03,742/-. 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 order of adjudication dated 12.03.2018 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.

21.08.2019

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PUSHPA SATHYANARAYANA, J.

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in I.P.No.4 of 2017

PUSHPA SATHYANARAYANA, J.

This application is listed today under the caption "for being mentioned" at the instance of the learned Official Assignee.

2. Learned Official Assignee submitted that the petitioning creditor agreed to receive the available amount in the estate with full satisfaction and as such there is no other claim qua the estate of the insolvent. However, inadvertently, in the order dated 21.08.2019, the estate of the insolvent was directed to be vested with the Official Assignee.

3. Heard the learned counsel appearing on behalf of the petitioning creditor, who has no objection in correcting the inadvertent typographical error crept in in the said order.

4. Considering the submissions of the learned Official Assignee, paragraph 4 is replaced as follows :

"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 order of adjudication dated 12.03.2018 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."

4. Except the above modifications, the order dated 21.08.2019 remains unaltered. The Registry is directed to issue corrected order copy to the parties.

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17.10.2019



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in I.P.No.4 of 2017