



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.06.2019
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.R.P(MD)No.801 of 2019

M.Stalin Selvakumar

... Petitioner/Petitioner

Vs.

1.A.Agasthian

2.Murugan

3.Parvathipuram Benefit Fund Ltd.,
rep. by its Managing Director,
Door No.444-B, Royal Building,
Parvathipuram, Nagercoil,
Agasteeswram Taluk,
Kanyakumari District.

4.C.Arumugam

5.Welcome Pharma Partners Firm
rep. by the respondents 6 and 7,
Office at No.36/8, 25-A, First Floor,
South Car Street, Nagercoil,
Agasteeswram Taluk,
Kanyakumari District.

6.K.Satheesh Kumar

7.S.Suresh @ Nagarajan

8.Hari Krishnan

9.Arumugam

10.K.Vikaraman

... Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India praying to direct the Principal District and Sessions Court, Kanyakumari District at Nagercoil to number the petition filed by the petitioner under the Provincial Insolvency Act, 1920 in unnumbered I.P.No.- of 2019 on the file of the Principal District and Sessions Court, Kanyakumari District at Nagercoil by allowing this civil revision petition.

**ORDER**

This civil revision petition has been filed by the petitioner seeking to number the insolvency petition filed by him.

2. The learned counsel for the petitioner would submit that the petitioner borrowed money from the respondents and the debts exceeds more than Rs.1,40,40,000/-. Since the assets belonged to him are very less, he has filed an insolvency petition before the Court below. But, the Court below returned the same stating that the Provincial Insolvency Act, 1920 is repealed and hence, the Court below has no jurisdiction.

3. The learned counsel for the petitioner would further submit that the petitioner is an individual and has filed the present petition under Section 10 of the Provincial Insolvency Act and the provisions relating to the individuals are yet to be notified. Thus, he prayed to direct the Court below to number the petition filed by the petitioner.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Perusal of return would show that the learned Judge has returned the papers stating that the Provincial Insolvency Act, 1920, is repealed and hence the Court has no jurisdiction. Learned counsel for the petitioner would represent before this Court that though the Act has been repealed, it has not been notified, but the petitioner without taking any steps to explain to the Court below as to the maintainability of the petition and whether the Act was notified or not, has straight away come forward before this Court. Therefore, the petitioner shall explain before the Court below as to the maintainability of the above petition and thereafter, the learned Judge shall decide the same on merits.

6. With the above observations, this civil revision petition is dismissed. No costs.

7. Registry is directed to return the original petition filed alongwith the revision, to the petitioner forthwith, after retaining a photocopy of the same.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)



To

The Principal District and Sessions Judge,
Kanyakumari District at Nagercoil.

Copy to:

The Record Keeper,
V.R. Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.R.MURUGAN, Advocate (SR-67532[F] dated 10/06/2019)

ORDER MADE IN
C.R.P (MD) No.801 of 2019
10.06.2019

smn

MK (28.06.2019) 3P 5C