

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

I.P.No.20 of 2012

R.Gunasekar ... Petitioner/Debtor

Prayer: Petition filed under Sections 9(F)(1), 10, 11, 14 and 15 of the Presidency Town Insolvency Act, 1909 and Order III Rule 1 of the Insolvency Rules, 1958 to pass an order adjudicating the petitioner as an insolvent and directing that his estate to be administered by the Official Assignee, Madras in a regular manner.

For Petitioner/Debtor : Mr.M.Javadh
No appearance

Official Assignee : Ms.Uma

ORDER

On 23.09.2019, since the insolvent was not appearing before this Court a Non-Bailable Warrant was issued against him. Pursuant to the Non-Bailable Warrant, the jurisdictional police has secured the insolvent and produced him before this Court on 11.12.2019.

2.The learned counsel for the insolvent assured the Court that his client would appear before the Official Assignee and would make himself available as and when required and produce necessary documents. Recording this undertaking, Non-Bailable Warrant was also recalled. Thereafter, there appears to be non co-operation on the part of the insolvent. When the matter came up on 08.1.2021, the learned Official Assignee sought time to file necessary applications for annulling the adjudication. When that application was posted before this Court once again the learned counsel who had earlier undertaken to appear on behalf of the insolvent appeared and assured

the Court that his client would appear for public examination before the learned Official Assignee on 10.01.2021. Thereafter, the matter was directed to be listed on 12.01.2021 for reporting compliance. When the matter was listed on 12.02.2021 the Court was informed that there was a partial compliance and he has not produced any document as sought for by the Official Assignee.

3.Today, when the matter is called there is no representation on the side of the insolvent and neither is there no representation to state that the insolvent was ready to settle the petitioning creditors as undertaken by him on 12.02.2021.

4.The Report of the Official Assignee would indicate that the insolvent on his own petition had been adjudicated as insolvent by orders of this Court dated 24.06.2012 and the insolvent had filed a Schedule of Affairs disclosing 15 unsecured creditors and no secured creditors. During the assets investigation, creditors meeting was

conducted on 28.06.2012. Only two of the creditors had attended and none of them disclosed the assets of the insolvent. The Sworn Statement of the insolvent was recorded on 09.04.2013. Two unsecured creditors has also filed a claim petition for a sum of Rs.62,034/-. Attempt made by the Official Assignee to get the insolvent to appear before their office was in vain. Thereafter, letters were addressed to the learned counsel appearing for the insolvent. The learned counsel for the insolvent by a reply dated 03.10.2019 submitted in the form of Memo dated 03.10.2019 that they did not know whereabouts of the insolvent.

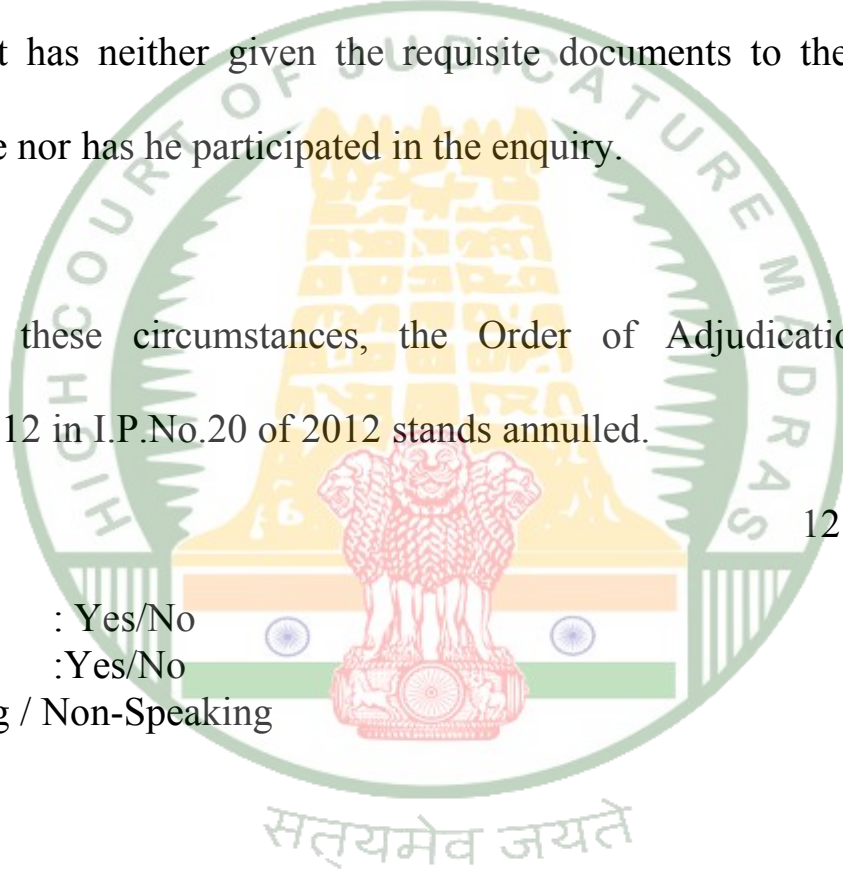
5.The Report would indicate that every time a Non-Bailable Warrant has to be issued to ensure the presence of the insolvent before the Court/Official Assignee. The insolvent has to be examined under Section 27 of the Presidency Towns Insolvency Act after serving notice of all his creditors. A sum of Rs.17,428/- was available in this estate.

6. Therefore, the Official Assignee would pray that the Order of Adjudication be annulled. A perusal of the records would clearly indicate the total non co-operation of the part of the insolvent. The insolvent has neither given the requisite documents to the Official Assignee nor has he participated in the enquiry.

In these circumstances, the Order of Adjudication dated 26.04.2012 in I.P.No.20 of 2012 stands annulled.

12.03.2021

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
mps

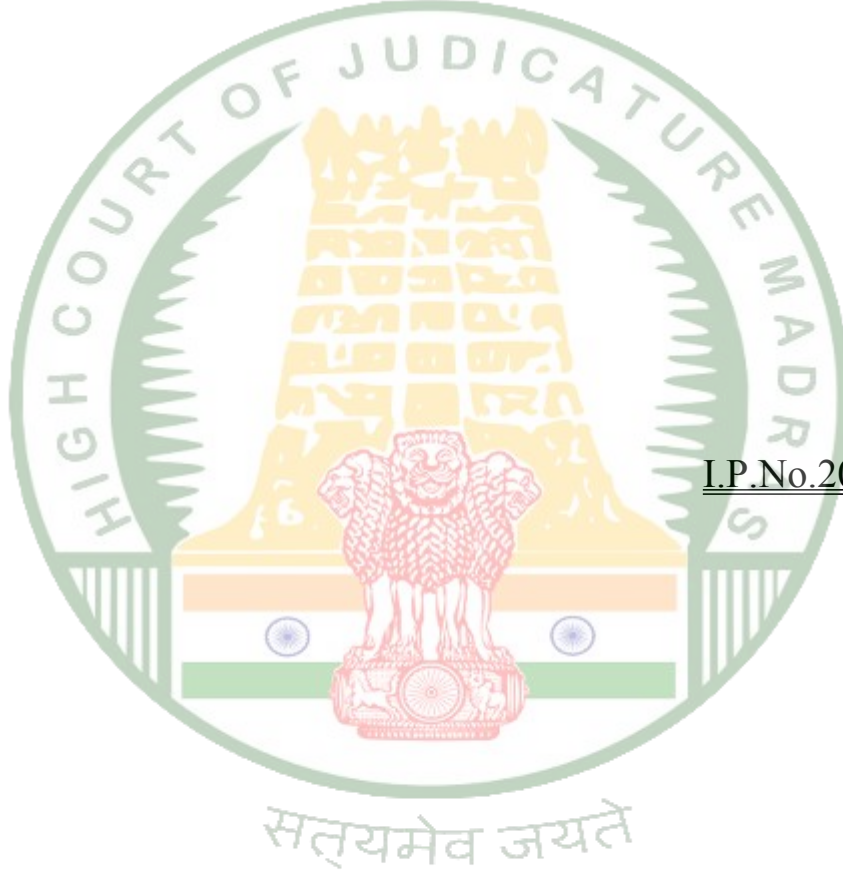


WEB COPY

I.P.No.20 of 2012

P.T. ASHA. J,

mps



I.P.No.20 of 2012

WEB COPY

12.03.2021