

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Insolvency Petition No.10 of 2020

K.Babu

... Petitioning Creditor

Vs.

V.Shanthi

...Debtor

PRAAYER: Petition filed under Section 9 to 13 of the Presidency Towns Insolvency act, III of 1909 and Order III-A of the Insolvency Rules, 1958 praying (a) to treat this Petition as urgent; (b) to adjudicate the Debtor as Insolvent; (c) to direct that the estate of the Debtor be vested in the Official Assignee of Madras, for the benefit of the general body of creditors of the Debtor; (iv) to order that the costs of this petition be paid by the Official Assignee of Madras, from and out of the estate of the Debtor to the Petitioning Creditor.

For Petitioning Creditor : Mr.T.Srikanth

J U D G M E N T

This insolvency petition has been filed seeking to adjudicate the respondent as insolvent on the ground that the insolvent has suspended payment of her debts due to inability to repay and she is liable to be adjudicated as insolvent, since she has committed an act of insolvency within the meaning of Section 9(1)(g) of the Presidency Towns Insolvency Act.

2.Despite service of notice, the respondent has not appeared either in-person or through counsel, duly instructed. The petitioner had let in evidence as P.W.1. He has filed a proof affidavit affirming the averments made in the petition. Exs.P1 to P3 have been marked. Ex.P1 is a Promissory note executed by the respondent in favour of the petitioner as a security for repayment of a sum of Rs.1,50,000/-, borrowed by her, with interest at 18% per annum. Ex.P2 is the letter executed by the respondent / debtor acknowledging the debt and expressing her inability to repay the money borrowed by her. Ex.P3, original envelope, on which the Ex.P2 was received.

3.Considering the evidence of the petitioner, I am of the opinion that the debtor has in fact committed an act of insolvency within the meaning of 9(1)(g) of the Presidency Town Insolvency Act.

4.Hence, there will be an order adjudicating the debtor as insolvent. The Official Assignee shall take steps to realize the assets of insolvent.

5.In fine, this Insolvency Petition is allowed. No costs.

26.04.2021

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Index: No

Internet: Yes

Speaking Order

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List of witness marked on the side of the petitioning creditor:-

P.W.1 – K.Babu

List of Exhibits marked on the side of the petitioning creditor:-

Ex.P1 – The original promissory note dated 16.05.2019 executed by the Debtor in my favour.

Ex.P2 – The original letter dated 17.09.2020 from Debtor addressed to me informing that she is not in a position to repay the money borrowed by her from me.

Ex.P3 – The original envelope addressed to me by the Debtor (containing Ex.P2) with original postal receipt dated 18.09.2020.

List of witness and documents marked on the side of the debtor:-

Nil

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R.SUBRAMANIAN, J.

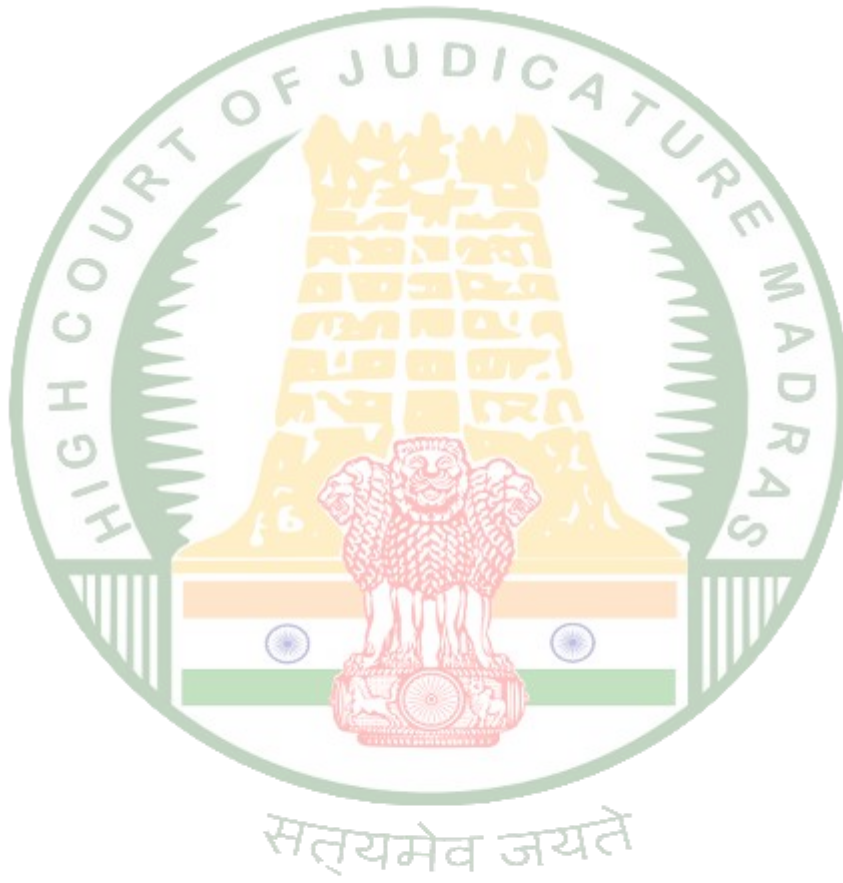
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