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*Appln.No.37 of 2022
in I.P.No.99 of 2010*

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M.SUNDAR, J.,

There are four applicants in the captioned application and they are three daughters and one son of one C.Heeralal Joshi alias C.H.Joshi who is no more and his date of demise is 14.07.2021.

2. To be noted, aforementioned C.Heeralal Joshi alias C.H.Joshi is debtor in the main IP.

3. Mr.S.Ramesh Kumar, learned counsel for applicants who is before this Court submits that the applicants had paid *inter alia* petitioning creditor on the understanding that a shop at Door No.121, Walltax Road, Sowcarpet, Chennai-600 001 will be desealed and handed over to them but that has not happened. This Court is informed that the amounts so paid were deposited with the office of Official Assignee.



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4. This Court makes it clear that no opinion or view is expressed on this plea at this stage.

5. Likewise, learned Official Assignee has come up with reports dated 18.02.2022 and 23.06.2022 with certain prayers, that will also be considered after the implead prayer in the captioned application is decided.

6. As regards implead prayer in the captioned application, learned counsel for petitioning creditor submits that he is not filing counter affidavit but adverting to Section 93 of 'The Presidency-Towns Insolvency Act, 1909 (Act No.3 of 1909)' [hereinafter 'PTI Act' for the sake of convenience and clarity] points out that on the death of a debtor against whom an insolvency petition has been presented, the matter shall be continued as if he were alive.



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7. A careful perusal of Section 93 of PTI Act makes it clear that it is not an absolute rule and it does say that the Court can order otherwise.

Section 93 of PTI Act reads as follows:

*'93. Continuance of proceedings on death of debtor -
If a debtor by or against whom an insolvency petition has
been presented dies, the proceedings in the matter shall,
unless the Court otherwise orders, be continued as if he were
alive.'*

8. Considering the peculiar facts and circumstances qua the case on hand i.e., particularly the fact that the amount has been paid on the understanding that the shop will be desealed and handed over to the applicants and in the light of the averment that the effects of applicants are inside the shop, without expressing any view or opinion on the same, captioned application is ordered as prayed for. All other prayers including the prayers of learned Official Assignee will be considered post amendment to main IP.

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9. Learned counsel for petitioning creditor to carry out necessary and consequential amendments in the captioned main IP within a fortnight from today i.e., on or before 12.08.2022. Learned counsel for petitioning creditor to furnish amended copies to all concerned within one week therefrom i.e., on or before 18.08.2022.

10. List on 22.08.2022 along with connected applications.

01.08.2022

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