



WEB COPY



I.P.No.7 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM

**THE HON'BLE MR. JUSTICE M.SUNDAR**

**I.P.No.7 of 2021**

V.S.Doss

... Petitioner

**Vs.**

B.Beamaram  
Son of Benaramaji  
Prop. Sri.Vinayaka Fancy House  
No.83, Arcot Road, Virugambakkam  
Chennai - 600 092

residing at  
Door No.33/8, First Floor  
AVM Avenue, Second Cross Street  
Virugambakkam  
Chennai - 600 092

... Respondent

Insolvency petition filed under Sections 9(2), 10, 11, 12 and 13 of the Presidency Towns Insolvency Act and Order 2 Rule 1 of the Insolvency Rules, 1958 for adjudicating the respondent herein as insolvent and direct the estate of the respondent vest with the Official Assignee, High Court, Madras to be administered in a regular manner and to direct the pay cost in this petition to come out from the estate.

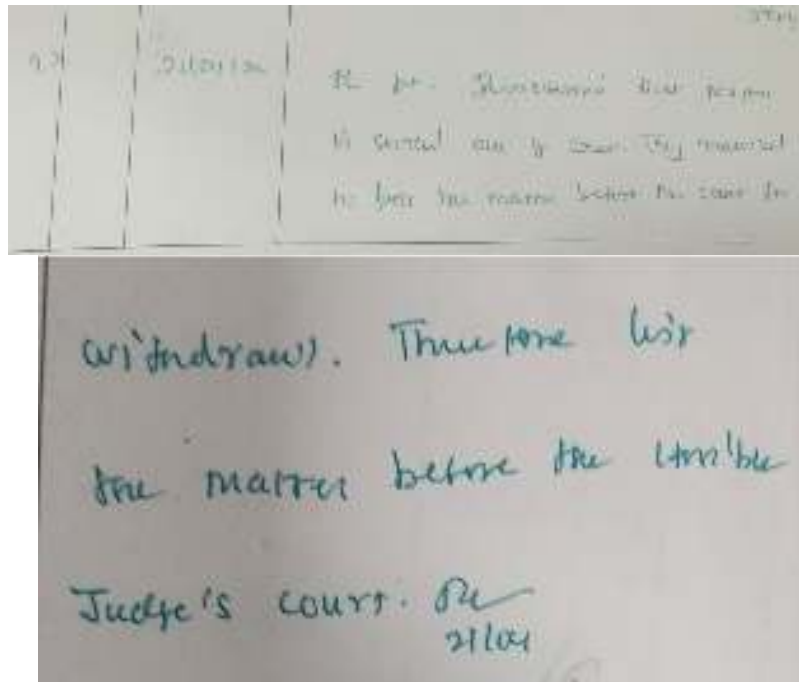
For Petitioner : Mr.T.Srikanth  
for Mr.A.Babu



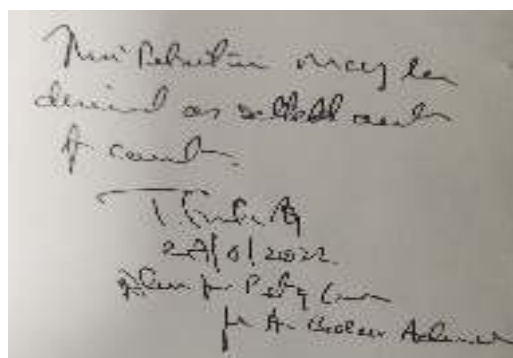
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**ORDER**

Mr.T.Srikanth, learned counsel representing the counsel on record for petitioner who is before this Court draws the attention of this Court to the proceedings of learned Master dated 21.04.2022, which reads as follows:



2. Learned counsel has made an endorsement in the case file which reads as follows:





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3. Learned Official Assignee Mr.V.Devanathan, who is before this Court, submits that there has been no adjudication in the matter and there are no dues from the respondent or from any other person to the Office of the Official Assignee.

4. This takes us to the plea for withdrawal of the captioned matter on the ground that it has been settled out of Court. In this regard, Order III Rule 18 of 'Insolvency Rules, 1958' [hereinafter 'said Rules' for convenience] being Rules made by the Madras High Court in exercise of Powers under Section 112 of 'Presidency-towns Insolvency Act 1909' (hereinafter 'PTI Act' for convenience) becomes relevant as it prescribes that affidavits setting out the terms in which the debts have been settled should be filed by the creditor and debtor before a petition by a creditor is allowed to be withdrawn. In the case on hand, a careful perusal of the main Insolvency Petition brings to light that it is a simple landlord-tenant dispute wherein the tenant has not paid the differential rent qua fair rent fixed by the Rent Controller under the erstwhile Rent Control Act leading to a civil Court decree in a suit at the instance of the landlord and insolvency plea is qua satisfaction of this decree.

5. Considering the peculiar facts and circumstances of the case on hand, this Court making it clear that this will not serve as a precedent for withdrawal



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in all and every case and making it clear that this approach has to be taken on a case to case basis, exercises its inherent powers under Section 90 of the PTI Act, permits withdrawal by acceding to the request of the learned counsel for petitioner to dispense with the filing of the affidavits qua Order III Rule 18 of said Rules. To be noted, at the risk of repetition, it is made clear that inherent powers are exercised owing to the peculiar facts and circumstances qua factual matrix of case on hand and as the matter has been settled before adjudication leaving no dues to the Office of the Official Assignee.

6. It is also made clear that if there is any other creditor qua the same debtor all the rights of such creditor will stand preserved/protected and this order of withdrawal will not come in the way if such creditor chooses to come before this Court on a later date.

In the light of the narrative thus far, captioned main IP is disposed of as withdrawn / closed. There shall be no order as to costs.

27.06.2022

gpa



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**M.SUNDAR.J.,**

gpa

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