



I.P.No.4 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

I.P.No.4 of 2019

Vinay Kumar Mittal

... Petitioner

VS.

1.M.Abdul Kadhar

2.A.Salma

...Respondents

Insolvency Petition filed under Section 10, 11, 12 and 13 of the Presidency Towns Insolvency Act and Order 2 Rule 1 of the Insolvency Rules to adjudicate the respondents herein as an insolvent and to direct that their estate to be administered by the Official Assignee, High Court, Madras in a regular manner and also to direct the costs in this petition to come out from the estate.

For Petitioner : Mr.R.Sanjay

For Respondents : No Appearance



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ORDER

This Insolvency Petition was filed to adjudicate the respondents herein as insolvents and to direct that their estate to be administered by the Official Assignee, High Court, Madras in a regular manner and also to direct the costs in this petition to come out from the estate.

2. The learned counsel for the petitioner would submit that the respondents are liable to pay a sum of Rs.2,52,000/- along with interest at the rate of 12% per annum from the date of plaint till the date of realization. By virtue of the decree passed by the XV Assistant City Civil Court, Chennai in O.S.No.2339 of 2006, as on date the respondent is liable to pay a sum of Rs.4,20,221.27.

3. Further he would submit that after obtaining the decree, the petitioner had sent an insolvency notice to the respondents vide letter dated 09.06.2018 and the same was returned as “Refused” by the respondents. Hence, this present petition was filed.



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4. After the filing of this petition, this Court ordered notice to the respondents and the service was effected to the respondents by virtue of paper publication also. However, no one appeared on behalf of the respondents.

5. Heard the learned counsel appearing for the petitioner and perused the decree passed by the XV Additional City Civil Court, Chennai and the also the insolvency notice issued by the petitioner to the respondents.

6. This Court is satisfied that the respondents are liable to pay the decree amount. However, the said amount was not paid by the respondents, due to non-availability of funds. It shows the respondents' inability to settle the dues, which ultimately proves that they are not in a solvent position. Thus, the act of insolvency is proved against the respondents. Hence, this Court feels that it is a fit case to declare the respondents as insolvents. Accordingly, they are adjudicated as insolvents. The learned Official Assignee is directed to take charge of all assets, etc., in accordance with law.



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KRISHNAN RAMASAMY.J.,
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7. In the result, this Insolvency Petition is Allowed.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

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