



WEB COPY



I.P.No.9 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

I.P.No.9 of 2018

Surekha Malhotra

... Petitioning Creditor

Vs.

1.J.Senthil Kumar,

Carrying on business under the name and style of
Sree Enterprises.

2.J.Rukmani

...Debtors

Insolvency Petition filed under Section 9, 10, 11, 12 and 13 of the Presidency Towns Insolvency Act and Order III Rule 1 of the Insolvency Rules to treat this petition as urgent, to adjudicate the debtors as insolvents, to direct that the estate of the debtors be vested in the official assignee of madras, for the benefit of the General body of creditors of the debtors, to order that the costs of this petition paid by the official assignee of Madras, from and out of the estate of the debtors to the petitioning creditors.

For Petitioner : Mr.T.Srikanth

For Debtors : D1 and D2 set Ex-parte



I.P.No.9 of 2018

ORDER

This creditors petition has been filed by the decree holder to declare the respondents as insolvents.

2. The learned counsel appearing for the petitioning creditor submitted that they obtained the decree on 15.09.2014. After obtaining decree, the petitioner sent notice and requested the respondents to make the payment. Thereafter, finally the petitioning creditors filed an application in I.N.No.16 of 2007 to issue notice to the debtors. The said notice was served on 05.12.2007. Even after the receipt of the said notice, the respondents have not come forward to settle the dues of the petitioner. Therefore, the learned counsel for the petitioning creditor contended that the respondents are not in a position to pay the said debt. The above acts clearly shows that they are not in a solvent position and requests to declare them as insolvent.

3. When the matter came up for hearing on last occasion (06.02.2023), on request of the learned counsel for the petitioner, the time was granted and the matter was listed today. However, today none appeared



I.P.No.9 of 2018

for the respondents. It shows that they are not interested to contest the matter. Hence they are set as ex-parte.

4. After hearing the learned counsel and perusing the documents, particularly, the decree passed by this Court and also the notice issued in I.N.No.16 of 2017, it is crystal clear that even after receipt of the notice, the respondents have failed to settle the dues of the petitioner and it shows the respondent's inability to settle the dues, which ultimately proves that they are not in a solvent position and hence this Court is satisfied to declare the respondents as insolvent and therefore this Court adjudicate the respondents as insolvent.

5. In the result, this Insolvency Petition is Allowed.

13.02.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

nsa



I.P.No.9 of 2018

KRISHNAN RAMASAMY.J.,
nsa

I.P.No.9 of 2018

13.02.2023