



I.P.No.1 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

I.P.No.1 of 2022

M/s.Kumbhat Financial Services Ltd.,
5th Floor, No.29, Rattan Bazaar,
Chennai 600 003.

... Petitioning Creditor

Vs.

L.Kuberan

...Debtors

Insolvency Petition filed under Section 9, 10, 11, 12 and 13 of the
Presidency Towns Insolvency Act and Order IIIA of the Insolvency Rules
to

- (a) treat this petition as urgent;
- (b) adjudicate the debtor as insolvent;
- (c) 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;
- (d) 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 creditor;

For Petitioner : Mr.J.Balagopal,
for Mr.T.Srikanth

For Respondents: set ex-parte



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ORDER

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- (a) treat this petition as urgent;
- (b) adjudicate the debtor as insolvent;
- (c) 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;
- (d) 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 creditor;

2. The learned counsel for the petitioner would submit that the respondent had borrowed money and since he refused to repay the said amount as agreed, a suit was filed in O.S.No.270 of 2014 before the learned VII Assistant City Civil Judge, Chennai by the petitioner. A decree was also came to be passed in the aforesaid suit for a sum of Rs.4,52,000/- together with interest on Rs.4,00,000/- at the rate of 18% per annum from the date of filing of the plaint till the date of realization. Since the respondent had not paid the decreed amount, the petitioner issued a notice dated 09.09.2019 and



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the same was refused to be received by the respondent. Thereafter, the present petition was came to be filed.

3. In the present petition also, notice was served to the respondent and the name of the respondent was also printed in the cause list. However, since none appeared on behalf of the respondent, he was set *ex parte* vide order dated 27.03.2023. The aforesaid attitude of the respondent shows his inability to discharge their debts to the creditors, including petitioner and the petitioner had proved the inability of the respondent to pay his debts.. Therefore, this Court feels that it would appropriate to adjudicate the respondent as insolvent.

4. In view of the above, this Court is inclined to adjudicate the respondent as insolvent. Consequently, this Court passes the following order:

- (i) The respondent is adjudicated as insolvent;
- (ii) The learned Official Assignee is directed to take charge of the assets of the debtor for the benefit of the General Body of creditors of the debtors;



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5. With the above directions, this petition is allowed.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation: Yes / No

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