



I.P. No.12 of 2019

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WEB CO **ABDUL QUDDHOSE, J.**

Hitesh M.Jain

... Petitioning Creditor

Versus

P.Srinath Kumar

... Debtor

This petition has been filed under Sections 9, 10, 11, 12 and 13 of the Presidency Towns Insolvency Act seeking for adjudication of the Debtor as Insolvent and also seeking for consequential directions.

2.The petitioning creditor has obtained a judgment and decree in O.S. No.4489 of 2018 on the file of the City Civil Court, Chennai. As per the said judgment and decree, the debtor was directed to pay a sum of Rs.16,56,306/- together with interest and costs. Admittedly, the judgment and decree dated 03.10.2018 passed in O.S. No.4489 of 2018 has attained finality. Based on the judgment and decree, the petitioning creditor has filed this Insolvency Petition. Insolvency Notice was also issued by this Court in I.N. No.6 of 2019 on the debtor. Despite service of the Insolvency Notice, the debtor failed to enter appearance in the Insolvency Notice. Being a



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decretal debt and the debtor having been issued the Insolvency Notice by this Court, which the debtor has chosen not to contest the same by entering appearance, an act of insolvency has been committed by the debtor.

3. Therefore, the reliefs sought for in this petition by the petitioning creditor has to be granted as the debtor has committed an act of insolvency as he is unable to pay the decretal debt payable to the petitioning creditor as per the judgment and decree passed by the City Civil Court in O.S. No.4489 of 2018. Being a decretal debt, there is no necessity for recording of evidence by the learned Master as done in other cases.

4. For the foregoing reasons, this petition is allowed as prayed for by adjudicating the debtor as insolvent and by directing the Official Assignee to take charge of the estate of the debtor for the benefit of the General Body of creditors of the debtor.

24.07.2023

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