



I.P. No.33 of 2018

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WEB CO **ABDUL QUDDHOSE, J.**

Ritukumari H.Jain

.. Petitioning Creditor

VS

1.D.Malarvannan

2.Sumathi Malarvannan

.. Debtors

This petition has been filed seeking to adjudicate the debtors as insolvents based on a judgment and decree dated 29.01.2015 passed in favour of the petitioning creditor in O.S.No.3803 of 2014 on the file of the City Civil Court, Chennai.

2.The petitioning creditor filed an application in I.N. No.17 of 2018 before this Court for issuance of Insolvency Notice to the debtors based on a decretal debt. This Court had ordered issuance of Insolvency Notice to the debtors. The said Insolvency Notice was returned with an endorsement “left”. Pursuant to the orders passed by this Court, Substituted Service was taken on the respondents/debtors by effecting paper publication in one issue of “Malai Murasu” dated 28.09.2018. Despite effecting paper publication,



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the respondents failed to enter appearance in the Insolvency Notice. The period of 35 days specified in the Insolvency Notice has also got expired.

The debt is a decretal debt and has been quantified as seen from the decree dated 29.01.2015 passed by the City Civil Court, Chennai. Therefore, the debtors have committed an act of insolvency within the meaning of Section 9 of the Presidency Towns Insolvency Act commencing from 01.11.2018. The amount due to the petitioning creditor as per the Insolvency Notice by the debtors is Rs.34,925/- and as seen from the petition in I.P. No.33 of 2018, as on the date of filing of the said petition, a sum of Rs.39,225/- is due and payable by the debtors to the petitioning creditor. The petitioner has filed a copy of the decree dated 29.01.2015 passed by the II Assistant City Civil Court, Chennai in support of his claim. Being a decretal debt and since the respondents have committed an act of insolvency and has failed to enter appearance, despite sufficient opportunities having been given, it is clear that the respondents are not in a position to repay the debts of the petitioning creditor and they have committed an Act of Insolvency.

3.For the foregoing reasons, this petition is allowed as prayed for and the debtors are adjudicated as insolvents and the estate of the debtors is



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directed to be vested with the Official Assignee of Chennai for the benefit
of the General Body of the creditors of the debtors.

21.08.2023

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