



C.R.P(MD)No.1994 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **09.08.2023**

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THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.1994 of 2018

S.Krishnadas

...Petitioner/Petitioner/

Vs.

1.D.Tamilganesan

2.D.Muthuselvam

...Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the returned order passed in unnumbered I.P.No. of 2017 on the file of the Sub Court, Madurai dated 07.08.2017 and directing the Sub Court, Madurai to number the above said creditor's insolvency application.

For Petitioner : Mr.C.S.Thillainayagam

For Respondents : Mr.G.Prabhu Rajadurai

ORDER

This civil revision petition has been filed to set aside returned order passed in unnumbered I.P.No. of 2017 on the file of the Sub



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Court, Madurai dated 07.08.2017 and directing the Sub Court, Madurai to number the above said creditor's insolvency application.

2. The petitioner herein is the petitioner and the respondents herein are the respondents before the trial Court.

3. For the sake of convenience, the parties will be referred as per the litigative status before the Trial Court.

4. The learned counsel for the petitioner submits that the petitioner has entered into a sale agreement with the father of the respondents. After the demise of their father, the respondents neither executed a sale deed nor repaid the amount, which was received by their father. Therefore, the learned counsel for the petitioner submits that such act comes within the purview of the act of insolvency. Hence, the endorsements made by the Court below regarding the maintainability is erroneous.

5. The learned counsel for the respondents would vehemently submit that even for a moment, the petitioner case is to be believed, the



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alleged default was committed only by the trust, not by the trustee.

Therefore, as against the trustee, no act of insolvency would come and also further submits that after the advent of Insolvency and Bankruptcy Code, 2016, the Provincial Insolvency Act and the Presidential Insolvency Act has been repealed. Therefore, no petition could be filed under the Provincial Insolvency Act.

6. I have given my anxious consideration to either side submissions.

7. From the very narration of the pleadings, the allegation is only against the trust. When there was an agreement with the trust, no question of insolvency arise as against the trustee. As submitted by the learned counsel for the respondent, after the advent of Insolvency and Bankruptcy Code, the Provincial Insolvency Act has been repealed. Therefore, no petition could be filed under the Provincial Insolvency Act. This Court do not find any infirmity in the order passed by the Court below.



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8. In the result, this civil revision petition stands **dismissed**. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Sub Court,
Madurai.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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