



WEB COPY



I.P. No. 24 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

I.P. No. 24 of 2024

K.V.Ramadoss

...Petitioner

-VS-

S.Sudeesh Kumar

...Respondent

PRAYER: Petition filed under Sections 9(g), 10, 11, 12 and 13 of the Presidency Town Insolvency Act, 1909 read with Order III Rule 8 of Insolvency Rules, 1958 to

- a) treat this petition as urgent; and
- b) adjudicate the Debtor as Insolvent;
- c) direct that the estate of the Debtor be vested in the Official Assignee of Madras for the benefit of the general body of creditor of the Debtor;
- d) order that the costs of this petition be paid by the Official Assignee of Madras, from and out of the estate of the Debtor to the petitioning creditor;
- e) pass such other or further orders as this Court deem fit and proper.

For Petitioner : Mr.T.Srikanth

For Respondent : No appearance

<https://www.mhc.tn.gov.in/judis>



ORDER

WEB COPY

This Insolvency Petition has been filed by the petitioning Creditor to adjudicate the respondent /Debtor as Insolvent and to direct that the estate of the respondent /Debtor be vested in the Official Assignee of Madras, for the benefit of the general body of creditor of the Debtor and also with costs of this petition.

2. The learned counsel for the petitioning creditor would submit that the respondent /debtor has borrowed a sum of Rs.3,00,000/- from the petitioning creditor for which he executed a promissory note dated 20.04.2023 wherein, he promised to pay the debt amount along with 18% interest per annum on demand. While so, though the petitioning creditor made his continuous demand for the debt amount, the respondent/debtor failed to pay the same. In the meanwhile, the respondent /debtor issued a letter dated 09.05.2024 to the petitioning creditor, wherein the respondent /debtor had stated that he is not in a position to repay the debt amount and he is heavily indebted to various creditors. Hence, the respondent /debtor expressed his inability that he cannot pay any money to the petitioning creditors about his inability to repay the debts he owes, which amounts to suspension of payment.



3. The learned counsel for petitioning creditor further submit that the petitioning creditor issued a legal notice on 04.07.2024 to the respondent /debtor, wherein demanded to repay the debt amount, which was replied by the respondent /debtor that he cannot pay any amount to petitioning creditor by reply notice dated 15.07.2024. Further, he submit that the respondent /debtor not paid the interest since the date of due. Therefore, the respondent/debtor is liable to pay a sum of Rs.3,58,000/- altogether with interest to a tune of Rs.58,000/- from 20.04.2023 to 18.07.2024. Hence, the petitioning creditor filed this petition to adjudicate the respondent /debtor as insolvent.

4. The learned counsel for the petitioning creditor would contend that the debt amount is a liquidated sum immediately payable by the respondent /debtor and he does not hold any securities towards the debt. He submits that from the above contention it would be clear that the respondent /debtor had committed an act of insolvency within the meaning of section 9(g) of the Presidency Town Insolvency Act III of 1909 w.e.f. 09.05.2024 when the respondent /debtor expresses his inability to pay the debt amount and the same was evidenced and confirmed by his reply notice dated 15.07.2024.



5. Further, he would submit that though this Court ordered notice to the respondent /debtor and the same was served on him, he had neither turned up to pay the said due amount nor contested the case. Therefore, he prays this Court to adjudicate the respondent /debtor as insolvent and to order the petition as prayed for.

6. From the submissions made by the learned counsel for the petitioning creditor, it is clear that the respondent /debtor has avoided to repay the entire dues. The aforesaid attitude of the respondent /debtor shows his inability to discharge his debts to the petitioning creditor and thus, the petitioning creditor had proved the inability of the respondent /debtor to pay his debts. Therefore, this Court feels that it would appropriate to adjudicate the respondent /debtor as insolvent.

7. Accordingly, this Court is inclined to pass the following orders:

- (i) this Insolvency Petition is allowed;
- (ii) the respondent /debtor is hereby adjudicated as insolvent;
- (iii) this Court directs that the estate of the respondent /debtor be vested
in the learned Official Assignee of Madras;
- (iv) the petitioning creditor is directed to deposit a sum of Rs.5,000/- with



WEB COPY



I.P. No. 24 of 202 .

the learned Official Assignee and the said amount shall be paid by
the learned Official Assignee, from and out of the estate of the
respondent /debtor to the petitioning creditor.

09.09.2024

Index :Yes/No

Maya



WEB COPY



I.P. No. 24 of 2024 .

K.KUMARESH BABU, J.

Maya

I.P. No. 24 of 2024

Dated : 09.09.2024