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A.(IP).No.73 of 2018

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in
I.P.No.33 of 1996

C.SARAVANAN, J.

This application has been filed by the petitioning debtor/insolvent to discharge him from the insolvency proceeding. The applicant was adjudged as an insolvent on his own petition by this Court vide its order dated 25.04.1996. The petitioner's wife namely Mrs.V.Mariammal was also adjudged as an insolvent on 11.12.1997 in I.P.No.197 of 1997. Pursuant to these orders the assets of the insolvents came under control of the Office of the Official Assignee.

2. The report dated 14.03.2024 filed by the Official Assignee states that about 19 unsecured creditors had filed claim petitions for a total sum of Rs.76,91,459/-. The report further states that all the claims were admitted for a total sum of Rs.36,54,165/- and that another claim was filed by a secured creditor in Claim No.199 of 1996 for a sum of



A.(IP).No.73 of 2018

Rs.6,89,825/- in respect of the property at Plot No.94, Selliamman Nagar, Athipattu Village, Ambattur, Chengalpet District.

3. Paragraph Nos.11, 12 and 13 of the report dated 14.03.2024

reads as under:

“11.It is submitted that when the matter came up for hearing before this Court on 08.03.2024, the Official Assignee submitted that a report dated 17.08.2023, objecting to grant of unconditional discharge to the insolvent had been filed, since there are 19 claims in this estate for a total sum of Rs.36,54,165/- and sufficient amount was not available to settle the creditors. The Official Assignee also sought time to file an Additional report to that effect.

12. In the above said circumstances, it is respectfully submitted that the insolvent, subsequent to the report dated 17.08.2023, has paid a sum of Rs.9,00,000/- to the credit of the estate. Already a sum of Rs.1,52,484/- is available in this estate and thus a total sum of Rs.10,52,484/- is available as on date. The said amount is sufficient to declare a dividend at the rate of 0.25 paise in a rupee to satisfy 26% of the proved claims in this estate.

13. It is submitted that Section 39(1)(C) and (2)(a) provide for discharge of an insolvent, in a case where 25% of the claim amount is paid to the creditors. The Sections read thus:-

“39.Cases in which the Court must refuse an absolute discharge.



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A.(IP).No.73 of 2018

(1)The Court shall refuse the discharge in all cases where the insolvent has committed any offence under this Act, or under Section 421 to 424 of the Indian Penal Code (45 of 1860), and, shall,

on proof of any of the facts hereinafter mentioned, either-

- (a)refuse the discharge; or
- (b)suspend the discharge for a specified time; or
- (c)suspend the discharge until a dividend of not less than four annas in the rupee has been paid to the creditors; or

(2)The facts hereinbefore referred to are-

(a)that the insolvent's assets are not of a value equal to four annas in the rupee on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that the assets are not of such value has arisen from circumstances for which he cannot justly be held responsible;

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4. In view of further deposit of Rs.9,00,000/- by the applicant subsequent to report dated 17.08.2023 and since a sum of Rs.10,52,484/- [Rs.9,00,000 + Rs.1,52,484] is available as on date and that the said amount is sufficient to declare the dividend at the rate of 26% to prove claim from the estate of the applicant, I am of the view this Application can be allowed.



A.(IP).No.73 of 2018

5. Considering the same, this application filed by the applicant/insolvent is allowed. Applicant shall pay further for Gazette publication with the office of Official Assignee/Government as per the Rules.

6. Accordingly, this Application stands allowed.

15.03.2024

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