



WEB COPY

IP No. 3 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

IP No. 3 of 2025

1. V.Padam Chand Khabiya
S/o.Vijayaraj Khabiya, No.34, Venkat
Raman Street, 3rd Floor, Kondithope,
Chennai-600 001.

Appellant(s)

Vs

1. Deepak .J
S/o.Jambu Kumar, 183/79, 2nd Floor,
Walltax Road, Park Town, Chennai-600
003.

Respondent(s)

IP No. 3 of 2025

PRAYER

To adjudicate the Debtor as Insolvent, to direct that the estate of the Debtor be vested in the Official Assignee of Madras, for the benefit of the General body of creditors of the Debtor, to 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.



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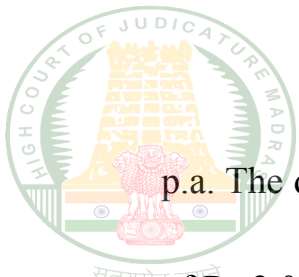
For Appellant(s): M/s.T.Srikanth
T.Shrinikethan

For Respondent(s): Mr.Deepak.J. - R1

ORDER

This petition has been filed by the petitioning creditor, seeking to adjudicate the debtor as an insolvent. This petition has been filed since the respondent has suspended payment to the petitioner of the admitted debt on account of respondent's inability to pay. The respondent has committed an act of insolvency and therefore, liable to be adjudicated as an insolvent as per the provisions of Section 9 (1) (g) of the Presidency-Towns Insolvency Act, 1909.

2. The respondent / debtor through his letter dated 01.12.2024 to the petitioning creditor has informed the petitioning creditor that he is not in a position to pay any amount to the petitioning creditor either towards principal or interest. The respondent / debtor had, on 09.05.2024, borrowed from the petitioning creditor a sum of Rs.50,000/- by IMPS and Rs.1,50,000/- by cash and had promised to repay the said sum along with interest at the rate of 24%

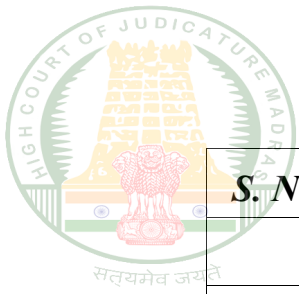


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p.a. The debtor has also executed a promissory note dated 09.05.2024 for a sum of Rs.2,00,000/- in favour of the petitioning creditor and has agreed to repay the said sum together with interest at the rate of 24% p.a. Since the debtor failed to pay the outstanding dues of the petitioning creditor, and since the respondent / debtor has expressed to the petitioning creditor that he is not in a position to repay the loan, the petitioning creditor has been constrained to file this petition, seeking to declare the respondent / debtor as an insolvent on account of suspension of payment of the admitted debt to the petitioning creditor.

3. The insolvency notice was duly served. But, the respondent / debtor also has chosen not to challenge the insolvency notice. The following documents have been filed by the petitioning creditor and the same have been marked as exhibits before the learned Master through the petitioning creditor, who himself was examined as PW1:

<i>S. No.</i>	<i>Date</i>	<i>Nature of Documents</i>	<i>Ex. No.</i>
1.	09.05.2024	Promissory Note for a sum of Rs.2,00,000/-	P1
2.	01.12.2024	Letter from the Respondent (Debtor) to petitioning creditor (Suspension of	P2



<i>S. No.</i>	<i>Date</i>	<i>Nature of Documents</i>	<i>Ex. No.</i>
		Payment)	
3.	14.12.2024	Legal notice sent by the petitioner's counsel to the respondent together with acknowledgement	P3
4.	30.12.2024	Reply sent by the respondent's counsel to the petitioner's counsel	P4

4. As seen from Ex.P2, the respondent / debtor has admitted that he had borrowed a sum of Rs.2,00,000/- from the petitioning creditor on 09.05.2024 and has failed to repay the said sum together with interest at 24% p.a. Through Ex.P2, the respondent / debtor has also admitted that due to heavy loss suffered by him in his business, he is unable to pay any amount to the petitioning creditor, either towards principle or interest. Thereafter, a legal notice dated 14.12.2024 has also been sent by the petitioner's counsel to the respondent. The said legal notice has also been received by the respondent as seen from the acknowledge card filed along with Ex.P3. A reply dated 30.12.2024 has also been sent by the respondent's counsel / debtor's counsel to the petitioner's counsel, wherein the respondent's counsel has once again reiterated that his client viz., the respondent / debtor is not in a position to pay the admitted debt



of the petitioning creditor. The petitioning creditor also confirms that the respondent / debtor had borrowed a sum of Rs.2,00,000/- from the petitioning creditor on 09.05.2024. In these petitions, notice has been duly served on the respondent / debtor. Till date, the respondent / debtor has not entered appearance in this petition despite having received the notice in this petition. Hence, the respondent is set *exparte* by this Court.

5. The documents filed by the petitioning creditor, which have been marked as exhibits will clearly prove that the respondent / debtor is not in a position to pay the admitted debt of the petitioning creditor and has suspended payments to creditors. The petitioner has satisfied the requirements of Section 9 (1) (g) of the Presidency-Towns Insolvency Act, 1909. Therefore, this Court has to necessarily allow this petition. Accordingly, this petition is allowed as prayed for by adjudicating the respondent / debtor as an insolvent and directing that the estate of the debtor to be vested with the learned Official Assignee for the benefit of the general body of creditors of the debtors.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1.Deepak .J

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ABDUL QUDDHOSE J.

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