



I.P. No.18 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2025

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Insolvency Petition No.18 of 2025

Desmond Theodore
12, Anderson Apartment
Anderson Road, Chennai 600 006

.. Petitioner/Creditor

Vs.

1.Anuj Dhingara
2.Anand Dhingara

.. Respondents/Debtors

Insolvency Petition filed under Sections 9(1)(d)(g), 9(2), 10, 11, 12, 13 and 16 of the Presidency Towns Insolvency Act, 1909 and Order IIIA of the Insolvency Rules, 1958, to adjudicate the debtors as insolvents and to direct the estate of the debtors be vested in the Official Assignee of Madras, for the benefit of the general body of creditors of the debtors.

For petitioner : Mr.L.Dhamodharan

ORDER

This petition has been filed under Order IIIA of the Insolvency Rules, 1958 read with Sections 9(1)(d)(g), 9(2), 10, 11, 12, 13 and 16 of the Presidency Towns Insolvency Act, 1909 (in short “the PTI Act”).

2. The case of the petitioning creditor is that he entered into an



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agreement of sale with the mother of the debtors and paid a sum of Rs.10,00,000/- as advance. The debtors mother failed to comply with the terms of the agreement and she had alienated the property to a third party and she passed away.

3. The petitioning creditor, thereafter, filed a suit in O.S.No.5162 of 2016 before the XIX Additional City Civil Court, Chennai, for recovery of money with interest. The debtors entered appearance and contested the suit and the suit was decreed on 18.10.2022.

4. The further case of the petitioning creditor is that a total sum of Rs.34,24,578.50 is the liquidated sum payable to the petitioning creditor. It is alleged that the debtors do not have the money or the financial wherewithal to settle the decree amount to the petitioning creditor and they have also not come forward to pay the amount. The decree that was passed in the suit has also become final. It is under these circumstances, the present petition came to be filed to adjudicate the debtors as insolvents and to direct the estate of the debtors be vested with the Official Assignee for the benefit of the general body of creditors of the debtors.

5. This Court ordered notice to the debtors and notice was also served



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and this Court directed the names of the debtors be printed in the cause list.

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After the names were printed in the cause list, the matter was taken up for

hearing on 15.09.2025 and the following order came to be passed by this Court:

“Service has been completed and the names of the debtors have also been printed in the cause list. However, there is no appearance either in person or through counsel. Hence, they are set *ex parte*.

2. Since this petition has been filed to adjudicate the debtors as insolvents based on the decree that was passed in O.S.No.5162 of 2016, it is not necessary to send the matter to the Master. Hence, post this petition for final hearing on 22.09.2025.”

6. The debtors have not cared to contest this petition and they have not appeared either in person or through counsel.

7. In the light of the fact that a decree has already been passed in a suit which was contested by the debtors and the decree has become final and that the amount due and payable to the petitioning creditor has not been paid, Section 9(2) of the PTI Act, comes into play. A debtor is said to have committed an act of insolvency, if a creditor who has obtained a decree against the debtor for payment of money and that decree has become final and notice has been served on the debtor as provided under sub-section 3 and the debtor does not comply with that notice within the period specified therein, the debtor



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will be adjudicated as an insolvent, since such an act on the part of the debtor

constitutes an act of insolvency.

8. As stated in the earlier order passed on 15.09.2025, it is not necessary to send this case to the learned Master to record statements, since the very claim is based on a decree that has been passed by a competent civil Court.

9. In view of the above discussion, the debtors are adjudicated as insolvents and there shall be a direction that the estate of the debtors be vested with the Official Assignee of Madras for the benefit of the general body of the creditors of the debtors.

This petition is disposed of in the above terms.

22.09.2025

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Index : Yes/No

Neutral Citation : Yes/No



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N. ANAND VENKATESH, J.

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