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I.P. No.13 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

I.P. No.13 of 2025

PARTHIBAN SUBRAMANIAN	...	Petitioning Creditor
	Vs.	
A. SARANYA	...	Respondent

PRAYER: a) To adjudicate the Debtor as Insolvent, b) 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. c) 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.

For Petitioning Creditor : T.SRIKANTH
T. SHRINIKETAN

For Respondent : Set exparte

ORDER

This petition has been filed under Section 9 (1) (g) of the Presidency-Towns Insolvency Act, 1909, seeking to declare the respondent as an insolvent on the ground that the respondent has suspended payment to all creditors, which includes the petitioning creditor.



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2. The respondent is a defaulter in the repayment of the loan to the petitioning creditor. The respondent had availed loan for a sum of Rs.3,00,000/- from the petitioning creditor by executing a demand promissory note and the respondent had agreed to repay the loan to the petitioning creditor together with interest at the rate of 18% p.a..

3. The respondent is a defaulter in the repayment of the loan. The petitioning creditor has sent several reminders, including issuance of legal notice to the respondent, calling upon the respondent to pay the outstanding dues. According to the petitioning creditor, a sum of Rs.3,81,000/- is due and payable by the respondent to the petitioning creditor as on the date of filing of this petition, which includes interest, amounting to Rs.81,000/- from 27.09.2023 to 27.03.2025.

4. The respondent has suspended payments of the creditors, which includes the petitioning creditor as seen from her letter dated 19.02.2025 as well as the letter sent by her lawyer dated 21.03.2025. In the said communications, the respondent had made it clear that she had incurred



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huge loss in her business and therefore, she is not in a position to repay any amount to the petitioning creditor and that she has suspended payment to all her creditors, which includes the petitioning creditor. Since the respondent has suspended payments to all the creditors, this petition has been filed, seeking to declare the respondent as insolvent as per the provisions of Section 9 (1) (g) of the Presidency-Towns Insolvency Act, 1909.

5. The respondent has been duly served in this petition. Despite the same, she has chosen not to enter appearance. Hence, the respondent is set *exparte* by this Court.

6. Evidence has already been recorded by the petitioning creditor before the learned Master. Before the learned Master, the petitioning creditor was examined as a witness (PW1) and he had also filed a proof affidavit before the learned Master. Through the petitioning creditor (PW1), the following documents were marked as exhibits on the side of the petitioning creditor:

<i>Ex. No.</i>	<i>Nature of Document</i>	<i>Date</i>
P1	Original Promissory Note executed by the debtor in favour of the petitioning creditor	27.09.2023



Ex. No.	Nature of Document	Date
P2	Original letter from the debtor to the petitioning creditor	19.02.2025
P3	Original legal notice issued to the debtor by the counsel for the petitioning creditor	17.03.2025
P4	Original reply sent by the counsel for the debtor to the counsel for the petitioning creditor	21.03.2025

7. As seen from the letter dated 19.02.2025, (Ex.P2) as well as the reply dated 21.03.2025 (Ex.P4) sent by the counsel for the respondent (debtor), the respondent has categorically stated that she is not in a position to repay the dues of the petitioning creditor and that she has already suspended payments to all her creditors. Therefore, this petition filed under Section 9 (1) (g) of the Presidency-Towns Insolvency Act, 1909 is maintainable as the respondent has committed an act of insolvency falling under the said provision. The petitioning creditor has also proved through the promissory note dated 27.09.2023, which has been marked as Ex.P1, that a sum of Rs.3,00,000/- was borrowed by the respondent from the petitioning creditor and the said sum is repayable with interest at the rate of 18% p.a. Only as per the promissory note, a sum of Rs.3,81,000/- is claimed by the petitioning creditor from the respondent as seen from the averments contained in the petition.



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8. Since the respondent has suspended payments to all her creditors and she has also stated that she does not have the means to repay the dues of the petitioning creditor and since she has admitted her liability to the petitioning creditor, this Court is of the considered view that the petitioning creditor has satisfied the requirements of Section 9 (1) (g) of the Presidency-Towns Insolvency Act, 1909 for the purpose of declaring the respondent as an insolvent. Accordingly, this petition is allowed as prayed for by adjudicating the respondent as an insolvent and in view of the same, directions are issued to the learned Official Assignee to take over the estate of the insolvent for the benefit of the general body of creditors of the insolvents.

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Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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