



I.P.No.62 of 2014

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

I.P.No.62 of 2014

Senthil Kumar

Petitioning Creditor

Vs.

1.Angammal
2.R.Mohan (Deceased)
3.M.Subathra
4.R.M.Nivetha
5.R.M.Pooja
6.M.Hariharan

Respondents

*(*R3 to R6 were impleaded as per the order dated 27.08.2024 made in Appl.No.76 of 2021*)*

Prayer: Petition filed under Sections 9, 10, 11, 12 and 13 of the Presidency-Towns Insolvency Act, III of 1909 and Order III-A of the Insolvency Rules, 1958, to adjudicate the debtors as insolvents and to direct that 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 and to order that the costs of this petition be paid by the Official Assignee of Madras, from and out of the estate of the Debtors to the Petitioning Creditor.



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For Petitioner : Mr.T.Srikanth
For Respondents : No appearance
for R1 and R3 to R6
R2-Deceased

ORDER

This Petition has been filed to adjudicate the debtors as insolvents and to direct that the Estate of the debtors be vested with the Official Assignee for the benefit of the general body of creditor of the debtors.

2. The case of the petitioning creditor is that the debtors owed money to the petitioning creditor and they have failed to repay back the money. Hence, the petitioning creditor has filed O.S.No.3760 of 2009 before the City Civil Court, Chennai, and the suit was decreed by judgment and decree dated 22.03.2010. Even after the decree was passed, the debtors failed to pay the decree amount of Rs.11,54,868.50/-.

3. The petitioning creditor filed an application in I.N.No.118 of 2013 before this Court for issue of insolvency notice to the debtors. Notice was ordered and it was served on 17.12.2013 and thereafter, the debtors filed an application in Application No.36 of 2014



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to set aside the insolvency notice, but however, the same was dismissed by order dated 21.04.2014. The period of 35 days specified in insolvency notice for compliance had expired on 21.01.2014. In view of the same, considering clause (b) of first proviso to Section 9(2) of the Presidency-Towns Insolvency Act [hereinafter referred to as 'the Act'], the debtors committed acts of insolvency within the meaning of Section 9 of the Act commencing from 21.04.2014.

4. It is under these circumstances, the present petition has been filed to adjudicate the debtors as insolvents.

5. This Court ordered notice to the debtors. Initially, the debtors were represented through counsel, but later they did not prosecute the matter. In the meantime, the second debtor died and the respondents 3 to 6 who are the legal heirs were impleaded as parties to represent the Estate of the second debtor by order dated 27.08.2024. Even they did not effectively prosecute the petition and all the respondents were set ex-parte by order dated 21.03.2025.



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6. The matter was posted before the Master for recording evidence.

Accordingly, the evidence has been recorded by the Master. The examination in chief was in the form of proof affidavit and Ex.P1 to Ex.P4 were marked. The matter has been sent back to the Court for passing final orders in this petition.

7. This Court heard the learned counsel appearing for the petitioning creditor and carefully went through the materials available on record and also the evidence that was recorded by the Master.

8. It is quite apparent that the decree that was passed in O.S.No.3760 of 2009 dated 22.03.2010 has become final. That apart, the debtors have committed the acts of insolvency within the meaning of Section 9(2) of the Act commencing from 21.04.2014. The amount that is due and payable by the debtors to the petitioning Creditor as on the date of filing this petition is Rs.11,54,868.50/-. The petitioning Creditor does not hold any security for this amount.



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9. The respondents also failed to prosecute this petition and take any defence and therefore, all those materials placed against them remain unrebutted.

10. In the light of the above discussion, the first debtor is adjudicated as insolvent. Insofar as the debtors 3 to 6 are concerned, the Estate of the deceased second debtor will vest with the Official Assignee apart from the Estate of the first debtor.

11. In the result, this petition is allowed with the above terms. There shall be no order as to costs.

15-09-2025

ssb

Index : Yes / No

Speaking Order : Yes / No

NCC : Yes / No



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