



Insolvency Petition No. 30 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16.06.2025**

CORAM

**THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE**

Insolvency Petition No. 30 of 2024

J.V.K.Ajay Pratheeb

... Petitioner

Vs.

Capt. P.C.Arun

... Respondent

**PRAYER:** Insolvency Petition filed under Section 9(g), 10, 11, 12 and 13 of the Presidency Towns Insolvency Act III of 1909 and Order III Rule 8 of the Insolvency Rules, praying to adjudicate the Debtor as an Insolvent and direct the Estate of the Debtor be administered by the Official Assignee of the High Court, Madras.

For Petitioner : Mr. B.Balachander

For Respondent : Exparte

**ORDER**

This petition has been filed under the provisions of the Presidency Insolvency Towns Act seeking to adjudicate the Debtor as Insolvent and direct the Estate of the Debtor to be administered by the learned Official Assignee.



2. The petitioner had filed a suit against the Debtor in O.S.

No.5474 of 2019 seeking for a direction that the Debtor be directed to execute the sale deed conveying the suit schedule property in favour of the Petitioning Creditor on receiving the balance sale consideration of Rs.65,49,000/-, failing which the Court may execute the Sale deed in favour of the Petitioning Creditor or in the alternative direct the Debtor to refund the advance sum of Rs.3,51,000/- together with interest at the rate of 24% per annum from the date of filing of the suit till the date of realization and for cost.

3. The aforesaid suit was decreed in favour of the Petitioning Creditor against the Debtor by the learned II Additional Judge, City Civil Court, Chennai by a judgment and decree dated 13.08.2021 passed in O.S. No. 5474 of 2019 by directing the Debtor to refund the advance amount of Rs.3,51,000/- to the Petitioning Creditor together with interest at the rate of 12% per annum from the date of filing of the suit i.e., 24.08.2012 till the date of realization.



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4. The Petitioning Creditor claims that as on 02.06.2024, as per the judgment and decree dated 13.08.2021, a sum of Rs.8,45,500/- is due and payable by the Debtor to the Petitioning Creditor as detailed hereunder:-

|                                                                              |      |                                  |
|------------------------------------------------------------------------------|------|----------------------------------|
| Decree Amount                                                                | ...  | Rs.3,51,000.00                   |
| Interest at 12% p.a. on<br>Rs.3,51,000/- from 24.08.2012<br>up to 02.06.2024 | .... | Rs.4,94,500.00                   |
|                                                                              |      | -----<br>Rs.8,45,500.00<br>----- |

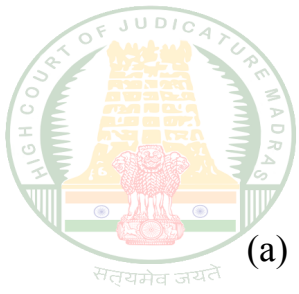
The judgment and decree dated 13.08.2021 passed in O.S. No.5474 of 2019 in favour of the Petitioning Creditor has attained finality as no appeal has been filed against the said judgment and no application has been filed by the Debtor seeking to set aside the exparte decree.

5.The Petitioning Creditor filed insolvency notice before this Court in I.N. No. 15 of 2024 and this Court had also issued insolvency notice to the Debtor on 13.06.2024. The insolvency notice sent to the Debtor was returned with the endorsement as 'left' on 24.06.2024. The same was also recorded by this Court.



6. The Petitioning Creditor thereafter filed Application No. 204 of 2024 seeking for issuance of a fresh insolvency notice to the Debtor through substituted service by way of publication in any Tamil daily having circulation in Chennai District. Application No. 204 of 2024 was also allowed as prayed for by this Court on 11.07.2024. Thereafter publication was taken by the Petitioning Creditor in 'Makkal Kural', Tamil daily on 17.07.2024 and the same was published on 18.07.2024 and the paper publication with proof of service was filed on 28.08.2024. As the publication was filed after completion of 35 days, the Petitioning Creditor has filed this insolvency petition seeking to adjudicate the Debtor as an Insolvent as prayed for in this petition.

7. The petitioner has let in oral and documentary evidence before the learned Master of this Court, pursuant to the directions issued by this Court. The proof affidavit of the Petitioning Creditor has also been filed before the learned Master. The proof affidavit reiterates the contents of the petition filed by the Petitioning Creditor seeking for adjudication of the Debtor as an Insolvent. Before the learned Master, the following documents were marked as exhibits on the side of the Petitioning Creditors:-



WEB COPY

- (a) the certified copy of the decree dated 13.08.2021 in O.S. No. 5474 of 2019 passed by II Additional City Civil Court, Chennai has been marked as Ex.P1;
- (b) the certified copy of the judgment dated 13.08.2021 in O.S. No. 5474 of 2019 passed by II Additional City Civil Court, Chennai has been marked as Ex.P2;
- (c) the insolvency notice dated 24.06.2024 in I.N. No. 15 of 2024 has been marked as Ex.P3 and
- (d) the copy of the paper publication effected in Makkal Kural dated 12.01.2025 has been marked as Ex.P4.

Before the learned Master, the Petitioning Creditor himself was examined as a witness to prove that the Petitioning Creditor is entitled to adjudicate the Debtor as an Insolvent.

8. After giving due consideration to the contents of the petition filed in support of this petition as well as the documents marked as exhibits on the side of the Petitioning Creditor, namely, Exs.P1 to P4 as well as the fact that the judgment and decree dated 13.08.2021 passed in O.S. No. 5474 of 2019 by the II Additional City Civil Court, Chennai has



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now attained finality and also after giving due consideration to the fact that the insolvency notice issued by this Court has also not been responded, this Court is of the considered view that it has been proved that the act of insolvency has been committed by the respondent. The debt payable to the petitioning creditor by the respondent is an undisputed debt and it has also been proved by the petitioning creditor that the debtor does not have the means to pay the decretal debt to the petitioning creditor.

9. Accordingly, the claim of the Petitioning Creditor as prayed for in this petition is proved and this petition is allowed as prayed for by declaring the Debtor, viz., Captain P.C.Arun as an Insolvent and by directing the estate of the Debtor viz., Captain P.C.Arun to be administered by the Official Assignee of the High Court Madras.

**16.06.2025**

Index :Yes/No  
*Maya*



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The Official Assignee  
High Court of Madras, Chennai.



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**ABDUL QUDDHOSE, J.**

*Maya*

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