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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

APPLN No. 154 of 2025
in IN No.5 of 2025

J.Murali Manohar
S/o.Krishnasamy Jayabalan,
Residing At No.AA17, 3rd Street,
Anna Nagar Chennai-600 040.

Applicant(s)

Vs

Mr.P.Bharat Kumar
S/o.Phoolchand, Carrying on business
under the name and style of
Kesariya Investments at
No.13/29, Kalathiappa Street
Rainbow Indra Apartments
5th Floor, Choolai, Chennai 600 112

Now residing at
KLP Abhinandan
1-30 Strahans Road,
M-Block, Flat No.1304
Chennai 600 012.

Respondent(s)



PRAYER Petition filed under Order II Rule 1 of Insolvency Rules under Section 9(5) of Presidency Towns Insolvency Act, 1909, to set aside the Insolvency Notice issued by this Court in I.N.No.5 of 2025 dated 08.07.2025.

For Applicant(s): Ms.A.Yuvasree

For Respondent(s): Mr.T.Srikanth

ORDER

This application has been filed to set aside the Insolvency Notice issued by this Court in I.N.No.5 of 2025 dated 08.07.2025.

2.Heard the learned counsel for the applicant/debtor and the learned counsel appearing on behalf of the respondent/petitioning creditor and carefully perused the materials available on record.

3.The petitioning creditor filed a suit against the applicant in O.S.No.3579 of 2016 before the City Civil Court, seeking for recovery of money along with interest. The suit was decreed by Judgement and Decree dated 20.10.2016.



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4. According to the applicant/debtor, since the application seeking for leave to defend was dismissed, CRP was filed before this Court in CRP No.1355 of 2017. This Civil Revision Petition was allowed by an order dated 22.03.2021, directing the applicant to deposit 50% of the suit claim. Since this condition was not complied with, the Decree passed by the Civil Court was confirmed.

5. Under such circumstances, the applicant/debtor has filed the present application to set aside the Insolvency Notice issued by this Court.

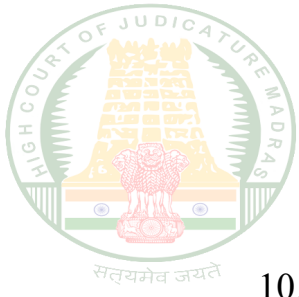
6. The only ground that has been raised by the applicant is that the applicant is a resident of UK and he was suffering from some ailments and taking advantage of the same, the petitioning creditor managed to get a Decree against the debtor.

7. In short, the applicant states that he was unwell and that he was not able to contact his Advocate for a long time.



8. Section 9(2)(5) of the Presidency Towns Insolvency Act (for the sake of brevity, hereinafter referred to as 'the Act') makes it clear that wherever person has been served with the Insolvency Notice, within the time prescribed for its compliance, can apply to the Court for setting aside the Insolvency Notice only on the ground that he has a counter claim or set-off against the creditor which equals to or in excess of the amount that has been decreed and which he could not proceed in the Decree that was already passed against him or that he is entitled to have the Decree to set aside under any law and he has made an application before the competent court to set aside the Decree and the time allowed for making such application has not expired. The other ground that can be raised is that where the decree is not executable under the provisions of any law.

9. The applicant/debtor has not even pleaded any of these grounds and therefore, the applicant/debtor has not satisfied the requirements of the provisions of Section 9(2)(5) of the Act. Under such circumstances, there is no ground for this Court to set aside the Insolvency Notice.



10. In the result, this application stands dismissed. No Costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

ssr



To
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N.ANAND VENKATESH J.

SSR

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