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A.(IP) No.65 of 2025
in I.P.No.156 of 2004

In the High Court of Judicature at Madras

Reserved on 08.9.2025	Delivered on : 10.9.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Application (IP) No.65 of 2025
in I.P.No.156 of 2004

K.Ravindran

...Applicant

Vs

The Official Assignee,
High Court, Madras

...Respondent

APPLICATION under Order II Rule 1 of the Insolvency Rules read with Section 38 of the Presidency Towns Insolvency Act, 1909 praying to grant an unconditional discharge to the applicant.

For Applicant	:	Mr.J.Balagopal
Respondent	:	Mrs.C.B.Meena, Official Assignee

ORDER

This is an application filed by the applicant seeking to grant an unconditional discharge as per Section 38 of the Presidency Towns



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Insolvency Act, 1909 (for short, the Act).

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2. Heard the learned counsel for the applicant and the Official Assignee.

3. The facts leading to filing of this application are as follows :

(i) The applicant was adjudicated as an insolvent in the above insolvency petition by order dated 05.1.2005. Pursuant to that, the estate of the applicant vested with the Official Assignee to be administered in a regular manner.

(ii) The notice of adjudication was served on all the creditors for filing their claim before the Official Assignee. The public examination commenced on 21.3.2018 and it was completed on 03.7.2019. There were 25 unsecured creditors to the tune of Rs.55,72,000/- and there was only one secured creditor to the tune of Rs.1 lakh. There was also a debtor to the estate to the tune of Rs.17,00,000/- and assets to the tune of Rs.20 lakhs. The administration of the estate was completed and after adjudication, the applicant had not contracted any debt nor committed any offence under the provisions of either the Act or the Indian Penal Code (IPC). It is under these circumstances, the above



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application has been filed by the applicant seeking unconditional discharge.

4. The Official Assignee filed a report dated 03.1.2025 wherein in paragraphs 8 to 14, it has been stated as follows :

"8. It is submitted that the above said property of the insolvent situated at Plot No.36, 6th Street, Periyar Nagar, Madipakkam, Chennai-91 was valued by the Official Assignee as on 09.07.2006 was Rs.9,45,000/- as per the valuation done by Thiru.P.Anbarasan, Valuer.

9. It is submitted that the property was brought for public auction sale through M/s.Alwin & Company on 16.07.2006 at the premises. The sale was conducted after due publication in Daily Thanthi and Dina Malar Newspaper on 09.07.2006 and also by distributing printed sale catalogues in and around the locality and among the intended purchasers. In the first sale conducted on 06.07.2006, six bidders participated and there were only 5 bids. In the said auction one Haneef was declared as the highest bidder for Rs.9,50,000/-. The Reserve Price fixed by the Official Assignee was Rs.11,50,000/-. The highest bid of Rs.9,50,000/- was lesser than that of the Reserve Price of Rs.11,50,000/-. Therefore, the



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sale was not confirmed as per conditions of sale catalogue and another sale was directed to be conducted in the Chamber of Official Assignee.

10. The Second Auction Sale was held on 09.08.2006 at the Chamber of the Official Assignee. The auction sale was published in Daily Thanthi and Dina Malar Newspaper on 30.07.2006 and 31.07.2006 respectively and also by distributing printed sale catalogue in and around the locality and among the intended purchasers. On 09.08.2006 two bidders have participated in the sale and there were 4 bids. In the above said auction sale the bid started from Rs.9,50,000/- and one N.Haneef (successful bidder in the first sale) residing at No.28/7, Purasawalkam High Road, Chennai was declared as the highest bidder for Rs.10,00,000/- (Rupees Ten Lakhs).

11. The Official Assignee filed Application No. 491/2006 in I.P.No.156/2004 praying for an order confirming the sale of property at Flat No.F2, Plot No.36, 6th Street, Periyar Nagar, Madipakkam, Chennai-91 in favour of the highest bidder, N.Haneef, residing at No.28/7, Purasawalkam High Road, Chennai, for a sum of Rs.10,00,000/- (Rupees ten lakhs only).

12. This Hon'ble Court by order dated 12.03.2007, made in Application No.491/2006 in I.P.No.156/2004, confirmed the sale in favour of



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the highest bidder, N. Haneef, residing at No.28/7, Purasawalkam High Road, Chennai, for a sum of Rs.10,00,000/-.

13. So far, two claims have been received in this estate out of which one secured claim in Claim No.152/2006 filed by Andhra Bank, Egmore Branch, Chennai, for a sum of Rs.7,95,092/- was admitted for a sum of Rs.8,00,729/-. Out of the admitted amount of Rs.8,00,729/- of sum of Rs.1,50,000/- was paid on 27.03.2007 and a sum of Rs.6,50,729/- was paid on 21.04.2007 to the above said secured creditor. Another unsecured claim filed by M.K.Dasan for a sum of Rs.2,00,000/- in Claim No.208/2006 is pending for admission.

14. It is submitted that the applicant in the present has not given any proper and justifiable reasons for the enormous delay of 6696 days filing the application for discharge is liable to be dismissed."

5. Further, another report dated 18.7.2025 filed by the Official Assignee would show that the applicant was examined and the property was identified. The property, which was brought for auction sale, was sold for a sum of Rs.10 lakhs. Two claims were received in the estate, out of which, one was a secured claim filed by Andhra Bank



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for a sum of Rs.7,95,092/- with interest and it was paid. There was one unsecured claim for a sum of Rs.1,50,000/-. The notice was also sent to all the unsecured creditors. Out of 32 unsecured creditors, the notice that was sent to 25 unsecured creditors was not served and only 7 unsecured creditors were served. But, they have not raised any objection.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and also the reports of the Official Assignee.

7. The law on the scope of Section 39 of the Act is now too well settled. This Court has repeatedly held that the law of bankruptcy does not expect that the debtor should always be the slave of the creditors and that the object is to release the debtor at the appropriate time taking into consideration several factors referred to in Section 39 of the Act, which states that the Court has no discretion to reject the discharge if the insolvent has not committed any offence either under the Act or under the IPC.



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8. In so far as the second limb of Section 39 of the Act is concerned, it is left to the discretion of the Court to refuse discharge or suspend discharge for a specified time or grant conditional discharge. While exercising this discretion, the Court must take into consideration several factors set out under Section 39(2) of the Act. The objection raised by the Official Assignee, by itself, is not a deciding factor and it is one of several circumstances, the Court has to take into consideration while dealing with an application for discharge.

9. In the case in hand, the applicant continues to be an undischarged insolvent for more than 20 years and the applicant has completed his 66th year and probably, it is high time that he is relieved of this stigma viewed with utmost contempt by the society at least in the evening of his life.

10. This Court had an occasion to deal with the scope of Section 39(2)(a) of the Act in the case of **N.M.Rajesh Vs. Official Assignee, High Court, Madras [reported in 2014 (6) CTC 423]** wherein the principles were carved out at paragraph 6, which is extracted as hereunder :

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"6. The principles laid down by our High Court in the judgments referred to above are that

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(i) The proceedings in insolvency shall be dealt with as expeditiously as possible and the creditors shall be satisfied as expeditiously as possible from the property of the insolvent and that the insolvent shall then be free to start life again unburdened by his debts.

(ii) The law of bankruptcy does not expect that the debtor should always be the slave of the creditors, but he has to be released at the appropriate time by taking into consideration several factors referred to in Section 39 of the Presidency Towns Insolvency Act.

(iii) It is the discretion of the court to refuse discharge or suspend discharge for a specified time or grant conditional discharge, having regard to totality of all the factors enumerated in Section 39(2).

(iv) The absolute order of discharge does not put an end to the administration of the insolvent's property.

(v) It is for the Court to decide whether the property should, even after annulment of adjudication, continue to vest with the official receiver or not. Whether the administration of the particular insolvency is brought to an end by the



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Court's order of granting the absolute order of discharge and is depending upon the nature of the order made.

(vi) Once there is an unconditional absolute order of discharge, the official receiver has no longer power to bring any of the properties of the ex-insolvent to sale and any dealing of the property by the official receiver in a given situation is against law and is liable to be set aside.

The relief sought for herein, if viewed in the light of the principles drawn from the authorities cited above, the same would compel this Court to grant the relief as sought for herein."

11. As was held by this Court in the said decision, the applicant did not commit any act, which disentitles him to seek for an order of discharge. Considering the age of the applicant, the status of the applicant need not be continued.

12. In the light of the above discussions, this application is ordered as prayed for.

10.9.2025



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N.ANAND VENKATESH,J

RS

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