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Application (IP) No. 383 of 2024

IN

I.P.No. 25 of 2014

DR.G.JAYACHANDRAN, J.

and

C.V.KARTHIKEYAN, J.

This Application has been filed under Section 101 of Presidency Town Insolvency Act, 1909 to condone the delay of 463 days in filing appeal against the order in Claim No. 273/2014 dated 10.08.2023 passed by the Official Assignee wherein the Official Assignee had rejected a portion of the claim to an extent of Rs.13,00,000/-.

2. In the affidavit filed in support of the petition, it had been contended that the claimant had filed Claim Petition No. 273 of 2014 for a sum of Rs.18,00,000/- together with interest. The claim had been admitted to a sum of Rs.5,00,000/- by the Official Assignee and rejected to a sum of Rs.13,00,000/-. It had been contended that the petitioner came to know about the admission of the claim to an extent of Rs.5,00,000/- only when they received notice of dividend from the Official Assignee.



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3. In the affidavit filed in support of the petition, it had been contended that the applicant did not receive the notification dated 02.11.2023 about the rejection of the claim. The father-in-law of the applicant, they enquired in the office of the Official Assignee and obtained the copy of the notification dated 02.11.2023. Thereafter, the applicant had applied for certified copy and had received the same on 05.09.2024. A delay had accrued in filing the Appeal against the order of the Official Assignee. It had been contended that the delay of 463 days is neither willful nor wanton. It had been further stated that if the delay is not condoned, the applicant will be put to serious prejudice and severe hardship.

3. Heard the learned counsel for the petitioner.

4. The learned counsel reiterated the averments made in the affidavit and claimed that the delay is neither willful nor wanton but because of bona fide reasons.



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5. Section 86 of the Presidency Town Insolvency Act, 1909 provides for an Appeal to the Court against a decision of the Official Assignee. The said provision is as follows:-

“86. Appeal to Court.— If the insolvent or any of the creditors or any other person is aggrieved by any act or decision of the official assignee, he may at appeal to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just. ”

6. Section 101 of the Presidency Town Insolvency Act, 1909 provides for limitation of Appeals. The said provision is as follows:-

“101. Limitation of appeals.—The period of limitation for an appeal from any act or decision of the official assignee, or from an order made by an officer of the Court empowered under section 6, shall be twenty days from the date of such act, decision or order, as the case may be.”

7. It is thus seen from the records that the affidavit had been signed on 11.10.2023 and had been filed on 04.12.2023 and there is no explanation as to why the application had not been filed from 10.08.2023. The other reason given that the applicant was not aware of the nature of the order cannot be



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accepted since the Court proceedings have been conducted in open and the creditors have been informed about the decision to take up their claim petitions by the Official Assignee and adjudicate on the same.

8. We hold that the reasons for the delay have not been properly explained. The Presidency Town Insolvency Act, 1909 is an inbuilt enactment with specific provision for limitation in filing Appeal against any decision of the Official Assignee. Even if Section 90 gives power to the Court to extend the time either before or after the expiration thereof, still such extension can be granted only there is bona fide in the filing of the appeal. We hold that since no credible reasons had been given to explain why the Appeal had not been filed within 20 days from 10.08.2023, the application lacks bona fide. The application has to necessarily suffer an order of dismissal and the same is dismissed. No costs.

(DR.G.J.J.) & (C.V.K.J.)
.04.2025

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and
C.V.KARTHIKEYAN, J.

vsg

Pre-Delivery Order made in
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.04.2025