

IN THE COURT OF THE SENIOR CIVIL JUDGE, TEKKALI.

Present:- Sri J. Srinivasa Rao
Senior Civil Judge, Sompeta.
FAC, Senior Civil Judge, Tekkali

Friday, the Twelfth day of January, Two thousand and Twenty Four
(12.01.2024)

Insolvency Petition No. 03 of 2023

Between:

Raghupatruni Tanoj, S/o Venkata Ramana Rao, aged 35 years, Hindu,
No avocation, R/at Door No.6-1-139, Prakash Nagar colony,
Kotabommali mandalam, Srikakulam district.

... Petitioner

And:

- 1) Govindu Rama Rao, son of late Kurma Rao, aged 37 years, Hindu,
business, R/at Yekuvoor, Vuppalam panchayat, Nadumuru Post,
Sompeta mandalam, Srikulam district.
- 2) Guggilapu Yugandhar, Son of Krishna Rao, aged 32 yeas, Hindu,
business, R/at Patha Jagaddevupuram village, Garudakhanti PO., Palasa
Mandalam, Srikakulam District.
- 3) M. Hemantha Rao, son of late Dalayya, aged 35 years, Hindu, business,
R/at Chinna Limbugam village, Mandasa Mandalam, Srikakulam
District.

... Respondents

This petition coming on 05.01.2024 for final hearing before me in the
presence of Sri L. Srinivasulu, Advocate for the petitioner; and the
respondents having been called absent, set exparte and remained exparte; and
upon hearing the counsel for the petitioner and having stood over for
consideration, this court passed the following:-

ORDER

1. This petition is filed by the petitioner u/sec.7 and 10 of Provincial
Insolvency Act, praying to adjudicate the petitioner as “insolvent person” for
the debts due to the respondents No.1 to 3 herein and for costs of the petition.
2. The brief averments of the petition are as follows:-

The petitioner is doing electronics business at Tekkali and he used to

borrow amounts from others including the respondents herein and used to meet the capital investment in the said business. The said business was successfully carried on by the petitioner in profit orientation till 2020 by paying all taxes, expenditure, and also discharged private loans to others with interest with sufficient balance sheet. Later, due to un-foreseen circumstances, in the said business as well as rival business competition in the locality, a peculiar nature of situation arose, due to which as such from 2020 onwards he used to borrow debts from the respondents as shown in the petition annexed A-schedule debts. Even then, the business could not be run in profit oriented manner as such he could not repay the debts to the respondents. The petitioner suffered heavy loss and he happened to continuously borrow several amounts from the respondents to continue his business. The petitioner while doing business, so many persons who are his customers / purchasers of goods committed serious defaults to pay the goods taken by them from the petitioner. In those circumstances it has become impossible to carry out and continue the said business any more, as there are no prospects of recouping the losses and discharging the debts. The petitioner was compelled to wind up the business due to persistent demands and threats to the petitioner from the respondents.

The petitioner further submitted that the amounts borrowed by the petitioner for doing business, from the creditors / respondents stand at Rs.29,50,000/-. The list of creditors and the amount due to them is given in the A-schedule. During the business tenure, he could not earn immovable assets. Even the petitioner had taken his level best efforts to sustain himself from loss. He could not win over the same. As such the business got wound

up in January, 2023. The petitioner has no immovable assets or fixed source of income, except the business and B-schedule properties, and feeding on mercy of others without any work or avocation. Due to respondents are giving much life threats to him, there is every life danger to the petitioner in the hands of the respondents. The respondents are with the assistance of police giving much mental torture and pressure to discharge their debts. Hence, the petitioner affected with ill-health.

The petitioner further submitted that he has not previously filed any similar petition to declare him as insolvent in any court of law. The petitioner also undertakes that he did not transfer, sale or alienate any sort of immovable or movable assets prior to filing of this application, and prays to declare him as an insolvent person.

3. On the strength of the above petition contents, this court ordered notices to the respondents No.1 to 3.

Initially, Respondent No.1, 3 made their appearance through their counsel, but they did not file any counter, and as such, they were set exparte and remained exparte.

4. During the course of enquiry, the petitioner examined himself as PW.1 and no documents got marked.

5. Heard the council for the petitioner.

6. Now the point for consideration is “whether the petitioner can be declared as “insolvent person” or not?”

7. POINT:

The petitioner examined himself as PW.1 and reiterated the petition

contents in his evidence also. As noted supra, the respondents No.1 to 3 in this case remained *exparte* and they did not controvert the petition contents, which is nothing but evidence of PW.1 in this case. Hence, the evidence of PW.1 being undisputed and uncontroverted, proved the petition contents and thereby the petitioner successfully proved and established that he borrowed amounts from the respondents in order to invest in his business, but as deposed by him, due to unforeseen circumstances in the said business as well as rival business competition in the locality a particular nature of situation arose, and as such, from 2020 onwards he used to borrow debts from the respondent as shown in the petition A-schedule debts from the respondents, and as such, he sustained heavy loss and could not repay the debts incurred by him. It is also proved by the petitioner that the respondents have been pressuring him to pay the amounts due to him, despite knowing the fact that the petitioner sustained heavy loss and he totally closed down his business and also knowing fact that he has no amount and properties to discharge the debts to the respondents.

Further, it is established from the evidence of PW.1 that the total value of the movable properties as shown in the petition B-schedule, which is to the extent of Rs.3,000/- is less than his liabilities that is to the tune of Rs.29,50,000/- which is due to the respondents. So, the perusal of the liabilities and assets of the petitioner, would well establish that the liabilities are more than the assets. Further, as seen from the material available, on record, it can be said that the petitioner is unable to discharge his debts to creditors / respondents since there are no sufficient properties to discharge the

huge amounts of debts to the tune of Rs.29,50,000/-.

Furthermore, as observed supra, all the respondents, though received notices in this petition, yet they did not choose to contest the matter. So, absolutely there is no contra evidence to disprove the contention of the petitioner. Hence, as observed supra, the evidence of PW.1 became unchallenged and uncontraverted. Therefore, the petitioner can be adjudicated as insolvent person in respect of the debts due to the respondents herein. Hence, this petition is liable to be allowed. Accordingly, the point is answered.

8. In the result, the petition is allowed, declaring the petitioner as “insolvent” in respect of the debts due to the respondents No.1 to 3 herein. No costs.

Dictated to the stenographer, transcribed by him, corrected and pronounced by me in open Court, on this the 12th day of January, 2024.

**Senior Civil Judge, Sompeta
FAC, Senior Civil Judge, Tekkali**

APPENDIX OF EVIDENCE

Witnesses Examined

<u>FOR Petitioner:</u>	<u>FOR Respondents:</u>
PW.1: Raghupatruni Tanoj	-NONE-

Documents Marked

<u>FOR Petitioners:</u>	<u>FOR Respondent:</u>
Nil	Nil

**Senior Civil Judge, Sompeta
FAC, Senior Civil Judge, Tekkali**

Insolvency Petition No.03 of 2023

sec.7 & 10 of Provincial Insolvency Act

12.01.2024:

Orders pronounced in open court (vide separate orders). In the result, the petition is allowed declaring the petitioner as “insolvent” in respect of the debts due to the respondents No.1 to 3 herein. No costs.

Scj