

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:29.07.2026

Pronounced on:07.08.2026

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THE HON'BLE MR.JUSTICE P.B. BALAJI

**CRP. No.2600 of 2026
and CMP. No.10970 of 2026**

1.Minor Kaviyarasi
D/o.M.Vijayan
represented by her mother
V.Sugunavathi
2.M.Vijayan

..Petitioner(s)

Vs

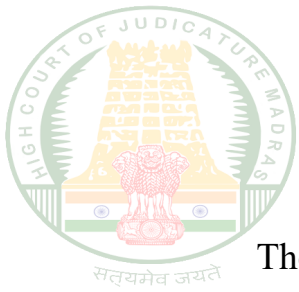
M/s.Dhanalakshmi Srinivasan
Chit Funds Private Limited,
Represented by its Authorized Signatory,
Kanchipuram.

..Respondent(s)

PRAYER: This Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code, to set aside the impugned fair and decretal order passed in E.A. No.7 of 2025 in E.P. No.131 of 2018 dated 12.11.2025 on the file of the Court Principal Subordinate Judge at Kanchipuram.

For Petitioner(s): Mr.D.Murthy

For Respondent(s): Mr.Jyothish Chander



ORDER

The present revision petition is at the instance of the judgment debtors who have been unsuccessful before the Executing Court in their application filed under Section 47(1) of CPC, questioning executability of the decree obtained by the respondent/Company.

2. I have heard Mr.D.Murthy, learned counsel for the petitioners and Mr.Y.Jyothish Chander, learned counsel appearing for the respondent.

3. The specific contention of the learned counsel for the petitioner is that the second petitioner has initiated Insolvency Proceedings and the same has been taken on file in IP. No.3 of 2016 and in such circumstances, the respondent was not entitled to execute the decree in its favour. The learned counsel Mr.D.Murthy, would invite my attention to Section 7 of the Provincial Insolvency Act, 1920 (in short 'Act') and with specific reference to the Explanation to Section 7 of the Act, he would state that even presentation of a petition by the debtor is deemed to be an act of insolvency within the meaning of Section 7 and he would therefore, state that the Insolvency Petition will have to be treated as admitted, once it is taken on file and numbered.

4. Further, inviting my attention to Section 29 of the Act, he would state that any Court where a suit or other proceedings is pending against the debtor, it has to necessarily stay the proceedings or specifically permit continuance on the proceedings on such terms as the Court may impose. He would therefore state

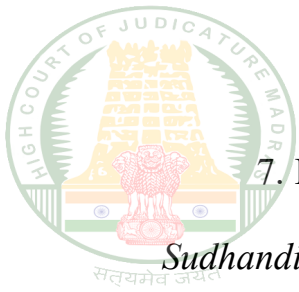


that there is no compliance of Section 29 of the Act as well.

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5. Lastly, referring to Section 51 of the Act, the learned counsel for the petitioner would contend that there is a clear bar on the creditor to exercise benefit of execution against the assets of the insolvent. He would also refer to Section 52 of the Act, which sets out the duties of the Court executing the decree pertaining to the property of the debtor in Execution Proceedings. The learned counsel therefore states that the Executing Court ought not to have proceeded with the execution proceedings and he would therefore pray for the revision being allowed, by setting aside the order in E.A. No.7 of 2025, in and by which the application filed under Section 47 of CPC, has been dismissed.

6. Per contra, Mr.Jyothish Chander, learned counsel for the respondent/decreed holder would state that Section 29 of the Act specifically stays suits or other proceedings pending against the debtor, only on proof of an order of adjudication being made under the provisions of the Provincial Insolvency Act, 1920. He would therefore states that when admittedly there is no order of adjudication, then the question of stay of the proceedings does not arise at all. Further, even with respect to Section 51 of the Act, it is his submission that Section 51 only restricts rights of creditors where a receiver has already been appointed to take charge of the assets of the debtor and when no such receiver has been appointed, it is not open to the petitioners to fall back on the provisions of the Section 51 or 52 of the Act.



7. In support of his submissions, he relied on the decision of this Court in *Sudhandiran Vs. S.Krishnan*, reported in 2006 AIR Madras 10. That apart, it is also his submission that the sale has already been concluded and the auction purchaser has deposited the entire sale consideration into Court and only because of the revision, the respondent is unable to satisfy the decree in its favour.

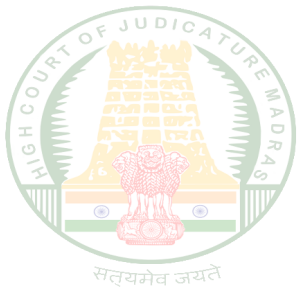
8. I have carefully considered the submissions advanced by the learned counsel on either side.

9. The only legal submission that has been raised by the petitioners is that even pending an Insolvency Petition, the debtors' assets cannot be proceeded against, much less, being brought to sale in execution proceedings pursuant to a decree obtained in a Civil Suit.

10. Sections 7, 29, 50, 51 and 52 of the Act, are usefully extracted hereunder:

"7. Petition and adjudication.—Subject to the conditions specified in this Act, if a debtor commits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent. Explanation.—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

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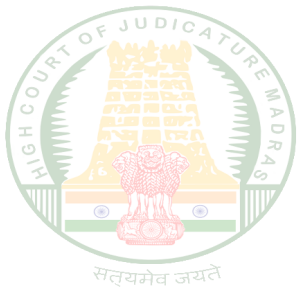
29. *Stay of pending proceeding.*—Any Court in which a suit or other proceeding is pending against a debtor shall, on proof that an order of adjudication has been made against him under this Act, either stay the proceeding, or allow it to continue on such terms as such Court may impose.

.....

50. *Disallowance and reduction of entries in schedule.*—
(1) Where the receiver thinks that a debt has been improperly entered in the schedule, the Court may, on the application of the receiver and after notice to the creditor, and such inquiry (if any) as the Court thinks necessary, expunge such entry or reduce the amount of the debt. (2) The Court may also, after like inquiry, expunge an entry or reduce the amount of a debt upon the application of a creditor where no receiver has been appointed, or where the receiver declines to interfere in the matter or, in the case of a composition or scheme, upon the application of the debtor.

51. *Restriction of rights of creditor under execution.*—(1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the receiver except in respect of assets realised in the course of the execution by sale or otherwise before the date of the admission of the petition. (2) Nothing in this section shall affect the rights of a secured creditor in respect of the property against which the decree is executed. (3) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the receiver.

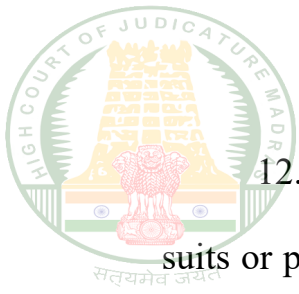
52. *Duties of Court executing decree as to property taken in execution.*—Where execution of a decree has issued against any property of a debtor which is saleable in execution and before the sale thereof notice is given to the Court executing the decree that an insolvency petition by or against the debtor has been admitted, the Court shall, on application, direct the property, if in the possession of the Court, to be delivered to the receiver, but the costs of the suit in which the decree was made and of the execution



shall be a first charge on the property so delivered, and the receiver may sell the property or an adequate part thereof for the purpose of satisfying the charge. "

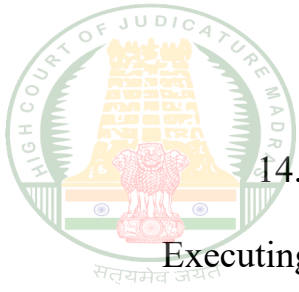
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1. No doubt, explanation to Section 7, states that the very act of presentation of a petition by the debtor himself shall be deemed to be an act of insolvency within the meaning of Section 7 of the Act. Section 7, has to be however read as a whole. The very heading of Section reads as '*Petition and adjudication*'. Therefore, merely because the explanation states that once a debtor presents the petition, it would be deemed to an act of insolvency, it is limited to the context of Section 7 alone. Further, Section 7, as can be seen from the above extract, requires a Court to make an order of adjudication on such petition filed by the debtor, adjudging him an insolvent. Even the explanation clearly requires that a petition filed by the debtor should be enquired into by the Court and the Court may make an order of adjudication, depending on the facts of the case on hand. Therefore, I am unable to countenance the submissions of Mr.D.Murthy, learned counsel for the petitioners that merely because an insolvency petition is filed and it is deemed to be an act of insolvency, the successful decree holder cannot proceed with the Execution Petition. That is why Section 29 of the Act, has been specifically incorporated to safeguard rights of a person who has been declared or adjudicated as insolvent.



12. I have already extracted Section 29 of the Act, herein above. Stay of suits or proceedings against the debtor would operate only on proof of an order of adjudication against the debtor under the provisions of the Provincial Insolvency Act, 1920. Admittedly, excepting for filing of insolvency petition, the petitioner has not been able to obtain any interim protection. No receiver has also been appointed by the Insolvency Court and in such circumstances, Section 29 will not come to the rescue of the petitioner.

13. Similarly, Sections 51 and 52 of the Act, also deal with cases where the insolvency Court has appointed a receiver to take charge of the assets of the debtor/insolvent. This also admittedly has not happened in the present case. In such circumstances, the reliance placed on Sections 7, its explanation, Sections 29, 51 and 52 are wholly misplaced. In fact, a similar issue came up for consideration in Sudhandiran's case (referred herein above), where this Court, following earlier judgments of the Court in *Kuppu Boyan V. Sengottaiyan*, reported in *AIR 1983 Madras 314* and *Ponnudurai Vs. Kumaraswami Muadaliar*, reported in *(1971) 2 Mad LJ 252*, held that mere filing of an insolvency application, in the absence of an order of adjudication would not necessitate stay of an execution proceeding by a creditor. The ratio laid down in the said case would squarely apply to the facts of the present case.



14. In such view of the matter, there is no error committed by the Executing Court in dismissing an application in E.A. No.7 of 2025, warranting interference in this revision. In fine, this Civil Revision Petition is dismissed.

Consequently, connected Miscellaneous Petition is also dismissed. No costs.

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Index: Yes

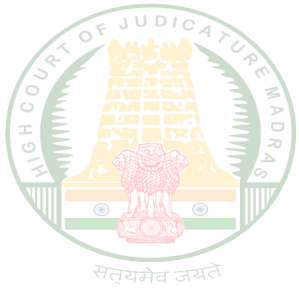
Speaking order

Neutral Citation: Yes

RKP

To

The Principal Subordinate Judge, Kanchipuram.



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Case Citation: (2026) ibclaw.in 4625 HC

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P.B.BALAJI, J.

RKP

Pre-delivery Order in
CRP. No.2600 of 2026
and CMP. No.10970 of 2026

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