

Insolvency 2/23

MOHD AHTESHAM Vs. SHAKEEL PRACHA & ANR.
CNR no. DLCT030022692023

19.08.2025

Present : Md. Furkan, Ld. Counsel for the petitioner.
None for respondent.

Arguments heard on the point whether the petitioner can be adjudged as an insolvent by virtue of Section 6 (1) (f) & Section 6 (1) (h) of the Provincial Insolvency Act, 1920. Record perused.

The brief facts of the case of the petitioner as averred in the petitioner are that the debtor/petitioner is unable to pay his debts i.e. a decretal amount of Rs.20,00,000/- along with interest @ 18% per annum payable to respondent no.2 and prays for an order of adjudication. It is stated that the petitioner is an old person aged about 64 years and is a senior citizen. The petitioner is not working anywhere and is suffering from various ailments including diabetes, hypertension, permanent spinal pain etc. It is stated that the petitioner is unable to do the work and having no source of income and also not having any properties and totally dependent upon his family for food, clothes and shelter. Hence, the present petition.

It is submitted by the counsel for the petitioner that by virtue of Section 6 (1) (f) of the Provincial Insolvency Act, 1920, the applicant/petitioner committed an act of insolvency as he petitioned to this Court to be adjudged as an insolvent under the provisions of Provincial Insolvency Act, 1920.

Contd....2/-

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Submissions have been heard.

Before proceeding further, it would be prudent to go through Section 24 (a) and Section 27 of the Provincial Insolvency Act, 1920 which read as under :

“24. Procedure at hearing – (1) On the day fixed for the hearing of the petition, or on any subsequent day to which the hearing may be adjourned, the Court shall require proof of the following matters, namely. :-

(a) that the creditor or the debtor, as the case may be, is entitled to present the petition;

Provided that, where the debtor is the petitioner, he shall, for the purpose of proving his inability to pay his debts, be required to furnish only such proof as to satisfy the Court that there are prima facie grounds for believing the same and the Court, if and when so satisfied, shall not be bound to hear any further evidence thereon;

27. Order of adjudication – (1) If the Court does not dismiss the petition, it shall make an order of adjudication, and shall specify in such order the period within which the debtor shall apply for his discharge.

(2) The Court, may, if sufficient cause is shown, extend the period within which the debtor shall apply for his discharge, and in that case shall publish notice of the order in such manner as it thinks fit.”

Section 6 (1) (f) of the Provincial Insolvency Act, 1920 which read as under :

6. Acts of insolvency – *A debtor commits an act of insolvency in each of the following cases, namely :-*

(f) if he petitions to be adjudged an insolvent under the provisions of this Act.

Contd....3/-

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Perusal of record shows that reply to the present petition had been filed on behalf of the respondents and as per the reply, the present petition is stated to be frivolous having been filed with suppression of material facts. Same is stated to be ill designed to avoid the liability on the decretal amount, passed in their favour.

The prime objection being the maintainability of the present proceedings in view of Section 8 of the Provincial Insolvency Act. It is stated that the present petition is not maintainable as no insolvency petition can be filed against any association or a registered company or any corporation, however, the objection is liable to be dismissed as Section 8 pertains to filing of Insolvency Petition against any association or a registered company or any corporation to adjudge any such association etc. as insolvent.

In my humble opinion, the petitioner has to furnish proof to prima facie satisfy the Court that there are grounds to declare the present petitioner as an insolvent and for the same evidence needs to be led. At this stage, the petitioner cannot be declared as an insolvent and the present petition stands admitted, for the petitioner to lead evidence.

Publication has already been done on 19.07.2025.

Put up for framing of issues on **27.09.2025**.

(Rinku Jain)
ASCJ-01 (Central)/Delhi
19.08.2025