

APPR030006122024



**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE (SENIOR
DIVISION) :: ONGOLE ::**

PRESENT : SRI CH.V.RAMAKRISHNA
Additional Civil Judge (Senior Division), Ongole.
Friday, this the 7th day of August, 2026.
Insolvency Petition No.36 of 2024

Between:

Goluguri Srinivasa Reddy, S/o Sathi Reddy, aged about 50 years,
Cultivation and Business, Hindu, Resident of D.No:5-101, Pandalapaka
Village of Bikkavoolu Mandal, East Godavari District.

...Petitioner

A N D

1. Kunchala Ramanayya, S/o late Chinna Venkayya, aged about 57
years, Resident of D.No:8-96, Water Tank Street 3rd Line, Vaddipalem
Area, Gangavaram Sivaru, Santhanuthalapadu Village and Mandal,
Prakasam District.

2. Kunchala Subbarao S/o Kunchala Ramanayya, aged about 37 years,
Resident of D.No:18-125, Karal Marks Colony, Bhupalapalli Village,
Bhupalapalli Mandal, Warangal District, Telangana state.

3. Kunchala Subbayya, S/o Kunchala Ramanayya, aged about 35 years,
Resident of D.No:8- 96, Water Tank Street 3rd Line, Vaddipalem Area,
Gangavaram Sivaru, Santhanuthalapadu Village and Mandal, Prakasam
District.

4. Tanneru Adi Lakshmi, W/o Anjaneyulu, D/o Kunchala Ramanayya aged
about 31 years, Resident of D.No:8-96, Water Tank Street 3rd Line,
Vaddipalem Area, Gangavaram Sivaru, Santhanuthalapadu Village and
Mandal, Prakasam District.

5. Tanneru Usha Rani, W/o Raju, D/o Kunchala Ramanayya, aged about
30 years, Resident of D.No:20-1935, Papireddy Colony, Chandra Nagar,
Serlingapalli Village, K.V.Rangareddy District.

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6. Kunchala Basava Raju, S/o Kunchala Ramanayya, aged about 39 years, Resident of D.No:8-96, Water Tank Street 3rd Line, Vaddipalem Area, Gangavaram Sivaru, Santhanuthalapadu Village and Mandal, Prakasam District.

...Respondents

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This Insolvency Petition came up on 30.07.2026 for final hearing before me in the presence of Sri G.Gandhi, Advocate for Petitioner, and the Respondent Nos.1 to 6 having been remained absent set exparte; and upon hearing the counsel for petitioner; and upon perusal of the material on record and this matter having stood over for consideration till this day, this Court made the following:

// O R D E R //

This Creditor Insolvency Petition is filed under section 9 of the Provincial Insolvency Act, 1920 (hereinafter referred to as 'the Act'), with a prayer (i) to adjudicate and declare the 1st respondent as insolvent; (ii) to hold the Registered Sale Deed dt.17.08.2022 bearing Document No.3746/2022 of SRO, Santhanuthalapadu, executed by Respondents 1 to 5 in favour of Respondent No.6 also the Registered Sale Deed dt.17.08.2022 bearing Document No.3747/2022 of SRO Santhanuthalapadu, executed by Respondents 1, 2 and 4 to 6 in favour of Respondent No.3, as collusive, sham and nominal and declare the same as null and void; (iii) to vest the petition schedule property in the hands of the Official Receiver for proper administration; and (iv) for grant of costs and such other reliefs, in the interest of justice.

2. The averments, in brief, of the petition are that 1st Respondent borrowed an amount of Rs.3,00,000/- (Rupees Three Lakhs Only) from the petitioner on 18.08.2019 for his family necessities and executed a promissory note in his favour at Pandalapaka village of Bikkavolu Mandal,

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East Godavari District, in the presence of attestors, agreeing to repay the said amount together with interest at 24% p.a., either to the petitioner or his order, on demand. It is further averred that the petitioner demanded the 1st respondent to pay the promissory note debt. But, the 1st respondent did not choose to pay the said amount and avoided to pay the same. The petitioner filed a suit O.S.No.164/2021 on 05.10.2021 on the file of the Junior Civil Judge Court, Anaparthi, and the same was decreed on 06.09.2022. It is averred that the 1st respondent indebted heavily and unable to pay the debts, but intended to dispose of his properties and to run away to unknown place. It is further averred that the 1st respondent in collusion with Respondents 2 to 6 created nominal and sham documents alienating his properties in favour of his kith and kin to defeat and defraud his creditors. It is averred that the 1st respondent, along with Respondents 2 to 5, intentionally created a nominal Registered Sale Deed dt.17.08.2022 bearing Document No.3746/2022 of SRO, Santhanuthalapadu, in favour of 6th respondent in respect of Item No.1 of petition schedule properties. Further, the 1st respondent intentionally fabricated another nominal Registered Sale Deed dt.17.08.2016 bearing Document No.3747/2022 of SRO, Santhanuthalapadu, in favour of 3rd respondent in collusion with Respondents 2 and 4 to 6 in respect of Item No.2 of the petition schedule properties. It is averred that the said documents were brought into existence as sham, nominal, collusive and fraudulent transactions. Thus, the 1st respondent committed an act of insolvency and therefore made himself liable to be adjudicated as an insolvent. Except, the said two items of properties, there are no other properties to the 1st respondent to discharge the above said promissory note debt. The petitioner got issued a registered legal notice to the

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respondents 1 to 6 on 25.10.2022 and the same was received by the respondents 1 to 6. The respondents did not give any reply to the notice of the petitioner. The 1st respondent did not come forward to discharge the decretal debt of the petitioner. All the respondents have colluded together and created sham and nominal documents to avoid payment of the debt to the petitioner. Hence, this petition.

3. Notice of the petition on Respondent No.1 returned unserved through post with endorsement "Refused", which is deemed service, and on 02.01.2025, which is the day fixed for his appearance, the Respondent No.1 was called and, as he remained absent and as there was no representation for him, he was set exparte.

4. Notice of the petition on Respondent No.2 was served through paper publication by way of substitute service and, on 07.01.2026, which is the day fixed for his appearance, the 2nd Respondent was called and, as he remained absent and as there was no representation for him, the 2nd Respondent was set exparte.

5. Notice of the petition on Respondents 3 and 4 returned unserved through post with endorsement "Addressee left without instructions, which is deemed service, and on 26.02.2026, which is the day fixed for their appearance, the Respondents 3 and 4 were called and, as they remained absent and as there was no representation for them, they were set exparte.

6. Notice of the petition on Respondents 5 and 6 returned unserved through post with endorsement "Addressee left without instructions, which is deemed service, and on 27.06.2025, which is the day fixed for their appearance, the Respondents 5 and 6 were called and, as they remained

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absent and as there was no representation for them, they were set exparte.

7. Now the points that arise for consideration are –

(1) Whether there is debtor and creditor relationship between the 1st respondent and the petitioner ?

(2) Whether the 1st respondent committed act of insolvency ?

(3) Whether the 1st respondent is liable to be declared as insolvent, as prayed for ?

(4) Whether the Registered Sale Deed dt.17.08.2022 bearing Document No.3746/2022 of SRO, Santhanuthalapadu, executed by Respondents 1 to 5 in favour of Respondent No.6 is a sham, nominal and collusive transaction and whether the same is liable to be declared as null and void, as prayed for ?

(5) Whether the Registered Sale Deed dt.17.08.2022 bearing Document No.3747/2022 of SRO, Santhanuthalapadu, executed by Respondents 1, 2 and 4 to 6 in favour of Respondent No.3 is a sham, nominal and collusive transaction and whether the same is liable to be declared as null and void, as prayed for ?

(6) Whether the Official Receiver can be directed to take over possession of the petition scheduled properties for proper administration, as prayed for ?

(7) To what relief ?

8. In support of his case, the petitioner got examined himself as PW1 and got marked Ex.P1 to Ex.P5. No evidence, either oral or

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documentary, for Respondents 1 to 6 as they remained exparte.

9. Heard the learned counsel for petitioner. Perused the material on record.

POINT Nos.1 to 6:-

10. In view of the facts and circumstances of the case, these six points need to be dealt with and considered together and as such they are taken up together for consideration.

11. The petitioner, as PW1, in his chief-examination affidavit, reiterated all the averments made in the petition and got marked Ex.P1 to Ex.P5. Ex.P1 is Certified copy of decree and judgment in O.S.No.164/2021 dt.16.09.2022 on the file of Junior Civil Judge Court, Anaparthi. Ex.P2 is Certified copy of Registered Sale Deed dt.17.08.2022 bearing Document No.3746/2022 of JSRO, Santhanuthalapadu, executed by Respondents 1 to 5 in favour of 6th respondent. Ex.P3 is Certified copy of Registered Sale Deed dt.17.08.2022 bearing Document No.3747/2022 of JSRO, Santhanuthalapadu, executed by Respondents 1, 2 and 4 to 6 in favour of 3rd Respondent. Ex.P4 is Office copy of legal notice dt.25.10.2022 issued by petitioner to the respondents 1 to 6. Ex.P5 is Postal receipts dt.25.10.2022 six (6) in number. The cross-examination of PW1 by Respondents 1 to 6 is recorded as nil, as they remained exparte. Hence, there remained the unchallenged testimony of petitioner as PW1 coupled with Ex.P1 to Ex.P5.

12. A perusal of the averments in the Insolvency Petition makes it clear that the said suit O.S.No.164/2021 on the file of the Junior Civil Judge Court, Anaparthi, was filed by the petitioner herein against the 1st Respondent as the 1st respondent borrowed Rs.3,00,000/- from him on

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18.08.2019 and executed a promissory note. The suit was decreed in favour of the petitioner and against the 1st Respondent. So, it is clear that the allegations against the 1st Respondent in respect of borrowal of amount by the 1st Respondent from the petitioner and the debt due by the 1st Respondent to the petitioner stands proved. Admittedly, the 1st respondent remained exparte and, as such, there is no contrary material to that of Ex.P1.

13. Further, a perusal of Ex.P2 makes it clear that the Respondents 1 to 5 have executed Registered Sale Deed dt.17.08.2022 in favour of 6th Respondent and a perusal of Ex.P3 makes it clear that the Respondents 1, 2 and 4 to 6 have executed Registered Sale Deed in favour of 3rd Respondent. Ex.P4 is only office copy of legal notice issued by the petitioner to the Respondents 1 to 6 prior to filing of Insolvency Petition. Ex.P5/Postal receipts are filed in proof of service of Ex.P4/legal notice on the Respondents 1 to 6. Admittedly, there is no contrary evidence to Ex.P1 to Ex.P5, as the Respondents 1 to 6 remained exparte.

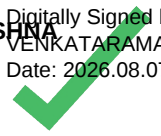
14. As there is no claim from the 1st Respondent that he discharged the due amount under promissory note dt.18.08.2019 or the debt due by him to the petitioner after the suit is decreed in favour of the petitioner on 06.09.2022, it can be safely held that the 1st respondent is indebted to the petitioner.

15. The averments of the petitioner in his petition are that the 1st Respondent indebted heavily and is unable to pay the debts and intending to dispose of his property and to run away to unknown place and, in that regard, the 1st Respondent intentionally got fabricated originals of Ex.P2 and Ex.P3 documents in collusion with Respondents 2

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to 6.

16. In that regard, a perusal of Ex.P2 makes it clear that, as per the recitals therein, the Respondents 2 to 5 have been claiming that they are children of 1st Respondent and also legal representatives to the property of 1st Respondent. It is further categorically claimed in Ex.P2 that it is only for the purpose of discharge of family debts of 1st Respondent they have been selling the said property to the Respondent No.6. The Respondent No.6 is also son of the Respondent No.1. So, it is clear that apart from the debt of the petitioner under Ex.P1 or say under the promissory note dt.18.08.2019, the 1st Respondent is having other debts also and it is only to discharge the family debts, the said property was shown to have been sold. But, for the reasons best known to the 1st Respondent or Respondents 2 to 6 they did not discharge the debt of the petitioner.

17. Coming to Ex.P3, a perusal of Ex.P3 makes it clear that, as per the recitals therein, the Respondents 2 to 5 have been claiming that they are children of 1st Respondent and also legal representatives to the property of 1st Respondent. However, this document was executed by the Respondents 1, 2 and 4 to 6 in favour of Respondent No.3. The Respondent No.6 is also son of the Respondent No.1. It is further categorically claimed in Ex.P3 that it is only for the purpose of discharge of family debts of 1st Respondent they have been selling the said property to the Respondent No.3 who is also son of the 1st respondent. So, it is clear that apart from the debt of the petitioner under Ex.P1 or say under the promissory note dt.18.08.2019, the 1st Respondent is having other debts also and it is only to discharge the family debts, the said property was shown to have been sold. But, for the reasons best known to the 1st

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Respondent or Respondents 2 to 6 they did not discharge the debt of the petitioner.

18. A perusal of Ex.P1 shows that the decree was passed against the 1st Respondent and in favour of the petitioner on 06.09.2022 and the originals of Ex.P2 and Ex.P3 were executed on 17.08.2022. So, it is clear that the 1st Respondent with a view to avoid the debt of the petitioner in the suit that may be passed against him, got executed the originals of Ex.P2 and Ex.P3 through his family members only to show sale transactions in respect of the said properties and to claim that the properties are not standing in his name any more and thereby defrauded the petitioner. Hence, it is clear that by the alleged sale transactions under the originals of Ex.P2 and Ex.P3 just 20 days prior to Ex.P1 are sham, collusive and nominal documents and, as such, the 1st Respondent can be 1st Respondent can be safely adjudged and declared as an insolvent and the sale transactions under the originals of Ex.P2 and Ex.P2 are sham, nominal and collusive transactions and thereby the sale transactions under the originals of Ex.P2 and Ex.P3 can be declared as as null and void. All these points are answered in favour of the petitioner and against the Respondents 1 to 6.

Point No.7:

19. In the result, the Insolvency petition is allowed in part and the 1st respondent is adjudicated as an insolvent and, consequently, he is declared as an insolvent. However, the petitioner is at liberty to move an application, after compliance of sections 45 to 50 and 54-A of the Provincial Insolvency Act, 1920, to annul the transfer of immovable properties under Registered Sale deed dt.17.08.2022 bearing Document

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No.3746/2022 of JSRO, Santhanuthalapadu and Registered Sale Deed dt.17.08.2022 bearing Document No.3747/2022 of JSRO, Santhanuthalapadu, respectively, under sections 4, 53 and 54 of the Provincial Insolvency Act, 1920, for vesting of the said properties concerned under the above documents to the Official Receiver, Ongole, for sale of the said properties in public auction and for distribution of sale proceeds to the petitioner, in accordance with law. The time for discharge is fixed as six months from the date of this order. Office is directed to send a copy of this Order to the District Collector, Ongole, for making Gazette Publication in compliance of section 30 of the Provincial Insolvency Act, 1920.

Dictated to the Stenographer of this Court, transcribed and typed by him, corrected, signed and pronounced by me in open Court, on this the 7th day of August, 2026.

Digitally signed by: Ch.V.Ramakrishna
Additional Civil Judge (Senior Division)
Ongole.

Appendix of Evidence
Witnesses Examined

FOR PETITIONER:

PW1 – Goluguri Srinivasa Reddy

FOR RESPONDENTS:

-NIL-

Documents Marked

FOR PETITIONER:

Ex.P1 : Certified copy of decree and judgment in O.S.No.164/2021 dt.16.09.2022 on the file of Junior Civil Judge Court, Anaparthi.

Ex.P2 : Certified copy of Registered Sale Deed dt.17.08.2022 bearing Document No.3746/2022 of JSRO, Santhanuthalapadu, executed by Respondents 1 to 5 in favour of 6th respondent.

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Ex.P3 : Certified copy of Registered Sale Deed dt.17.08.2022 bearing Document No.3747/2022 of JSRO, Santhanuthalapadu, executed by Respondents 1, 2 and 4 to 6 in favour of 3rd Respondent.

Ex.P4 : Office copy of legal notice dt.25.10.2022 issued by petitioner to the respondents 1 to 6.

Ex.P5 : Postal receipts dt.25.10.2022 six (6) in number.

FOR RESPONDENTS: - NIL -

Digitally signed by: Ch.V.Ramakrishna
Additional Civil Judge (Senior Division)
Ongole.

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