

**IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE,
TIRUPPUR**

Present :- Dr .V.Sree Vidya,
Principal Subordinate Judge,
Tiruppur.

Monday, the 9th day of March 2026

(Thiruvalluvarandu 2056, Visuvavasu Varudam Masi Thingal 25th Day

I.P.No. 36/2025

(TNTI04-000294-2025)

S.Nandhini

....Petitioner

//Vs//

The Manager
UGRO Capital Limited

.....Respondant

On 09.03.2026, this suit came before me for the final hearing in the presence of Thiru.V.Anandan., B.A., B.L., and the respondent were called absent and set exparte and upon hearing petitioners side arguments, and on perusal of available records for consideration, this court delivered the following :

Order

This petition is filed by the petitioner under sections 10 and 13 of Provincial Insolvency Act 1920 to adjudge the petitioner as insolvent.

2. Brief facts of the case:

2.1 The Petitioner avers that she was operating a business styled "New Tech Machines" at Tirupur. For the purposes of her said business, she obtained a business loan from the Respondent, UGRO Capital Limited, on 23.06.2023, for an aggregate sum of Rs. 10,00,000/- (Rupees Ten Lakhs only), with a repayment tenure of 36

months and a monthly instalment of Rs. 38,650/-. The Petitioner further avers that she has paid a total of Rs. 6,95,700/- towards principal and interest, and that the outstanding balance payable to the Respondent, as claimed by the Petitioner, is Rs. 5,72,062/-.

2.2 The Petitioner further submits that due to severe business losses over the past one year, she has become unable to repay the outstanding loan amount. She states that she presently possesses no moveable or immoveable property of any significant value, save and except certain articles of personal clothing valued at a nominal sum of Rs. 1,000/- (Rupees One Thousand only). The total liabilities of the Petitioner are stated to be Rs. 5,72,062/-, while the total assets disclosed are only Rs. 1,000/-, resulting in a deficiency of Rs. 5,71,062/-.

2.3 The Petitioner, in support of her petition, filed a proof affidavit and examined herself as P.W.1. She marked the online copy of the GST Registration Certificate for her business "New Tech Machines" as Ex.P1. The Respondent was duly served with notice through open proclamation and paper publication in accordance with the orders of this Court. Despite due service, the Respondent neither entered appearance nor filed any written statement or counter. Accordingly, this petition was taken up and heard ex parte against the Respondent.

3. Points for determination:

3.1 Upon consideration of the pleadings and the evidence on record, the following points arise for determination:

(i) Whether the Petitioner has committed an act of insolvency as contemplated under the Provincial Insolvency Act, 1920?

(ii) Whether the Petitioner is entitled to be adjudicated as an insolvent under Sections 10 and 13 of the Provincial Insolvency Act, 1920?

(iii) What order?

4. Discussion and findings:

4.1 Point Nos. (i) and (ii): The Provincial Insolvency Act, 1920 is a special legislation that enables an individual debtor who is unable to discharge his debts to seek relief from the Civil Court by way of adjudication as an insolvent. Section 6 of the Act specifies the acts constituting insolvency. Section 10 prescribes the procedure for presentation of an insolvency petition. Section 13 of the Act requires that the Court shall not make a receiving order on a petition presented by a debtor unless the petitioner satisfies the Court that the amount of his debts is not less than Rs. 500/- and that the petitioner has committed an act of insolvency or is unable to pay his debts.

4.2 The fundamental prerequisite for the exercise of jurisdiction by this Court under the Provincial Insolvency Act is the establishment of a clear and specific act of insolvency as enumerated under Section 6 of the Act. An act of insolvency includes, inter alia: (a) making a fraudulent transfer; (b) making a fraudulent preference; (c) departing from or remaining out of the local limits with intent to defeat or delay creditors; (d) execution being levied and remaining unsatisfied; and (e) filing a declaration of insolvency in Court. The mere inability to pay debts, while a relevant factor, is in itself insufficient to constitute an act of insolvency unless it is coupled with a specific enumerated act under Section 6.

4.3 In the instant case, the Petitioner has averred through her proof affidavit (filed as P.W.1) that she is unable to repay the outstanding loan amount of Rs. 5,72,062/- due to business losses and deteriorating financial circumstances. However, a careful scrutiny of the petition and the evidence adduced reveals that the Petitioner has failed to specifically plead or establish any definite act of insolvency under Section 6 of the Act. The Petitioner has merely stated that she is unable to pay her debts, without bringing on record any concrete material to demonstrate that she committed a specific act within the meaning of Section 6 of the Provincial Insolvency Act.

4.4 The Petitioner has produced only one document, viz., Ex.P1 – the GST Registration Certificate for her business "New Tech Machines". This document merely establishes that the Petitioner was registered as a business entity for GST purposes. It does not, in any manner whatsoever, establish the commission of an act of insolvency, demonstrate fraudulent transfer, or prove any other act enumerated under Section 6. The statement of assets and liabilities appended to the petition discloses total assets of a paltry Rs. 1,000/- against liabilities of Rs. 5,72,062/-. However, this abstract of accounts, by itself, cannot substitute for the foundational requirement of establishing a specific act of insolvency.

4.5 Furthermore, the deposition of P.W.1 does not contain sufficient probative material to satisfy the Court on the question of act of insolvency. The evidence is confined to a bare narration of the financial predicament of the Petitioner, asserting inability to repay. Crucially, there is no material on record to show: (i) that the Respondent has initiated any legal proceedings or obtained any decree against the Petitioner; (ii) that any execution proceedings are pending or that a notice of demand has been served; (iii) that the Petitioner has departed from her usual place of residence with intent to defraud creditors; or (iv) that she has made any fraudulent transfer, preference, or gift of her property. The absence of any such foundational fact is fatal to the maintainability of the petition.

4.6 The Hon'ble Supreme Court of India in several decisions has consistently held that a petition for adjudication of insolvency must disclose a clear and unambiguous act of insolvency as a condition precedent for the Court to exercise jurisdiction under the Act. The Court cannot grant the relief of adjudication of insolvency on the basis of a bare allegation of inability to pay, unsupported by proof of a specific act of insolvency enumerated in Section 6. The maxim "ubi jus ibi remedium" operates in tandem with the principle that the remedy is available only to one who has fulfilled the prerequisites established by the statute.

4.7 In addition to the above, it is observed that the Petitioner's statement of assets discloses only items of personal clothing valued at Rs. 1,000/-. The Act, in its protective design, contemplates that genuine insolvency petitions should be accompanied by a full, true, and complete disclosure of all property, assets, credits, and liabilities. The veracity and completeness of the statement of assets as filed before this Court is, at best, doubtful. The meagre disclosure of assets, unsupported by any credible evidence regarding the actual state of the Petitioner's business affairs, reinforces the finding that the Petitioner has not made out a case for adjudication of insolvency.

4.8 For all the foregoing reasons, this Court is of the considered opinion that the Petitioner has failed to establish a specific act of insolvency as required under Section 6 of the Provincial Insolvency Act, 1920, and has not placed adequate material before this Court to satisfy the requirements under Sections 10 and 13 of the Act. Accordingly, Point Nos. (i) and (ii) are answered in the negative, against the Petitioner.

5. Point No. (iii) – ORDER:

In the result, the petition in I.P. No. 36 of 2025 filed by the Petitioner Nandhini under Sections 10 and 13 of the Provincial Insolvency Act, 1920, is hereby dismissed for want a proof of a specific act of insolvency as contemplated under the Act. No costs.

Dictated to Steno typist and transcribed and typed by her into the computer, corrected and pronounced by me in open court, this the 9th day of March, 2026.

Principal Subordinate Judge,
Tiruppur.

I. List of witness examined on the side of the Petitioner :-

P.W.1- K.Nandhini

II. Documents marked on the side of the Petitioner :-

Ex.P1	27.03.2020	Registration Certificate in the name of the petitioner.	Online Copy
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Principal Subordinate Judge,
Tiruppur.

**Draft / Fair Order
in
I.P. No. 36/2025
Dated : 09.03.2026
PSJ Court, Tiruppur.**