APKU0A0000602021

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), ALLAGADDA.

Present: Smt. S. Sailaja,
Civil Judge (Senior Division), Allagadda.

Friday, the 08th day of May, 2026

Insolvency Petition No.10/2021

Komtham Venkata Rama Gopal Reddy, aged 52 years, S/o Venkata Reddy, Hindu, Cultivation, R/o Allagadda town & Mandal, Kurnool District

… Petitioner

Versus

1. Cheekati Maddilety, aged 49 years, S/o Chinna Balanna, Hindu, Business, R/o Allagadda Town & Mandal, Kurnool District.
2. Thalari Siva Naidu, aged 39 years, S/o Sivalingam, Hindu, Private Employee, R/o H.No.6-6-21, Sardar Veedhi, Allagadda Town, Kurnool District.

… Respondents

This insolvency petition came up for final hearing before me on 29.04.2026 in the presence of **Sri C.V. Ramana Rao,** Advocate for the Petitioner and of **Sri B. Neelakanteswaram and Sri E.Mallikarjuna Reddy,** Advocates for Respondent No.1, and of **Sri K. Sai Swaroop and Sri K.Venkateswarlu,** Advocates for Respondent No.2, upon hearing both sides; and the matter having stood over for consideration till this day, this Court passed the following:-

: O R D E R :

1. The Petitioner filed the Creditor I.P. under Section 9 of the Provincial Insolvency Act against the Respondents to declare the 1st Respondent as an insolvent and to appoint an interim receiver in respect of the immovable property to take possession of the same from the 2nd Respondent, and to lease hold his respective property to discharge the creditors debts; and to set aside the Sale Deed executed by 1st Respondent in favour of 2nd Respondent.

2. The brief facts of the petition are that :

(a). The 1st Respondent borrowed an amount of Rs.4,50,000/- on 28.09.2017 and executed a demand Promissory Note in favour of Petitioner agreeing to repay the same with interest at 24% p.a. The 1st Respondent has miserably failed to discharge the amount due under the Promissory Note and more over he borrowed amounts from several creditors, and the 1st Respondent has not made any part payment towards the Promissory Note executed in favour of the Petitioner inspite of several demands and he is postponing the same on some pretext or the other. As such, the Petitioner filed a suit against 1st Respondent on the file of Junior Civil Judge Court, Allagadda in O.S.No.473/2019 and also filed I.A.No.888/2019 for attachment of Schedule Property before Judgment on 16.10.2019. But having knowledge about filing of the suit as well as attachment petition, the 1st Respondent purposefully evading to receive notice from the court and got executed a nominal Sale Deed in favour of 2nd Respondent, who is none other than son-in-law of 1st Respondent.

(b). The Petitioner came to know that recently the 1st Respondent alienated his immovable property to 2nd Respondent on 01.11.2019 to defraud the Petitioner and other creditors. The Sale Deed executed by the 1st Respondent in favour of 2nd Respondent is not binding on the Petitioner. After selling the property the Petitioner came to know that the 1st Respondent is leaving this place. The 1st Respondent with intend to defeat and delay his creditors left his usual place and has been keeping himself concealed depriving his creditors of all means of communication with creditors and alienated his immovable property. The limitation for filing this petition will start from 05.04.2020, since the alleged alienation of the 1st Respondent in favour of 2nd Respondent has come to know by the Petitioner. Therefore the petition is within time. Hence the petition.

3. ***The brief facts of the counter of 2nd Respondent are that :***

All the allegations in the petition are denied as false. Further submitted that the *2nd Respondent* purchased the schedule property from original owner i.e., 1st Respondent on 01.11.2019 after making proper enquiry with regard to schedule property, and on the same day itself the 1st Respondent who is original owner of the property, delivered the possession of the said property to him, and from then on wards he is in rightful possession of the said property, and became absolute owner over the schedule property by right, title and possession and he is a bonafide purchaser of the said schedule property. The schedule in the petition is vague, only to suit the purposes of the Petitioner and to damage the right of this Respondent. Hence, the Petitioner is not aware of the nature and transaction of the property that is mentioned by him in the petition. Hence, the petition is liable to be dismissed.

Further submitted that from the conduct of the Petitioner, it is clear that he was keenly interested in usurping the property of the 1" Respondent by hook or crook and is deliberately pulling him into unwanted litigation and because of which, the 2nd Respondent is as well dragged into this unwanted litigation. The Petitioner could have chosen to receive the consideration from this Sale Deed to satisfy his debt if at all there is any, but he is avoiding to do so for the reason that he is more interested in the property than his alleged debt. The Petitioner is deliberately avoiding to show the details of the business done by the 1st

Respondent and he could have brought his business and its related assets if any into the fold of this petition. He has deliberately avoided to do so because the Petitioner is keenly interested in the property of the 1st Respondent. Upon enquiry, he came to know that the family of the Petitioner has grudge over the family of 1st Respondent and in pursuance of their family feud, Petitioner has filed this petition to counter case the Insolvency Petition filed by the wife of the 1st Respondent over the wife of the Petitioner as I.P.No.14/2019. The families of both Petitioner and 1st Respondent are unnecessarily dragging him into unwanted litigation and making him suffer by causing damage to him physically, mentally and financially. Suppressing these facts, the Petitioner has filed this petition to create a cloud of genuineness to his alleged debts. Hence, the Petitioner has not presented himself before this Court with clean hands and so this petition is liable to be dismissed. The petition filed by the Petitioner is unjust, frivolous and infructuous. There are no bonafides in the case. He is the bonafide purchaser of the schedule mentioned property from the 1st Respondent for valuable consideration, which transaction cannot be put to scrutiny under the petition of the Petitioner, in the interests of the Justice, or else he will be put to irreparable loss and untold hardship. Hence, prayed to dismiss the petition.

4. The Learned Counsel for the 1st Respondent reported no counter.

5. To prove his case, the Petitioner himself examined as PW1, and marked Exs.P1 to P5. The Respondent No.2 himself examined as RW1 and Ex.R1 marked through PW1, & Ex.R2 is marked through RW1. The Respondent No.1 did not adduce either oral or documentary evidence.

6. Heard both sides. Perused the material records.

7. Now, the points for consideration are:

1. ***Whether the 1st Respondent committed the act of Insolvency?***
2. ***Whether the 1st Respondent is liable to be declared as insolvent ?***
3. ***Whether the Sale Deed dated 01.11.2019 is liable to be set aside?***

8. POINTS No.1 to 3:

(a). With regard to the pleadings of both parties, the evidence adduced by Petitioner and Respondent No.2 on record. As seen from the Petition, the Petitioner sought relief to declare the 1st Respondent as insolvent and the Sale Deed executed by the 1st Respondent in favour of 2nd Respondent is set aside, and also to appoint an official receiver to administer the petition schedule property and to distribute the same to the creditors. The Respondent No.2 denied the same, and taken ground that petition is barred by limitation. *Since the Petitioner has come to the Court, it is his burden to prove the same by producing cogent evidence.*

(b). The Learned Counsels for the both parties argued as per their pleadings. The Learned Counsel for the 2nd Respondent relied up on the decisions reported in : **2011 (6) ALD 527** in case of K.Konda Reddy Vs K.Thirupalamma W/o K.V.Golla Reddy, K.C.Golla Reddy S/o Chinna Narayana and K.Subbamma W/o Pedda Hanumantha Reddy.

(c). To prove his case the Petitioner examined himself as PW1, and he reiterated the contents of petition in his chef examination affidavit, and Exs.P.1 to P.5 are marked. During cross examination, he deposed that the suit OS.No.473/2019 on the file of JCJ, Allagadda is still pending. Ex.R1 is certified copy of Chief examination affidavit of Plaintiff in OS.No. 473/2019 on the file of JCJ, Allagadda. He filed Ex.P4 and P5 which are stands in the name of 1st Respondent, and are prior to sold away property under Ex.P1. And that attachment effected on 30-12-2019 in OS 473/2019 on the file of JCJ, Allagadda. He don't know whether wife of 1st Respondent filed IP.No.14/2019 against his wife as 1st Respondent. He has not verified revenue records time to time in the suit OS 473/2019. He knows the house of R1 at the time of filing of suit in OS 473/2019. He has not demanded 1st Respondent to discharge debt amount before filing above suit. He don't has personal acquaintance with 2nd Respondent. He has not enquired with 2nd Respondent personally by stating property is attached before judgment in above suit. Witness voluntaries that he knows 2nd Respondent is son in law of 1st Respondent. He has not filed any record to show 2nd Respondent is son in law of 1st Respondent. He has not filed declaration suit by seeking relief of cancellation of sale deed, as Ex.P1 sale deed is fraud. After knowing Ex.P1 sale deed alleged fraudulent, he has not met with 2nd Respondent personally by saying the same. He has not mentioned name of other creditors of 1st Respondent in above petition. He was not added 2nd Respondent herein in suit OS.473/2019 as a party. 1st Respondent is doing commission business. 2nd Respondent is private teacher. He enquired about 1st Respondent, who is having except schedule property and no other properties. He has not filed any petition before Junior Civil Judge Court, Allagadda by mentioning IP proceedings. He has not filed market value certificate related to schedule property. Present revenue records are showing name of 2nd Respondent. He has not mentioned in chief affidavit or in petition that the date when he came to know about execution of Ex.P1. He was income tax assesee. He has not shown amount which lend by me to 1st Respondent to his income tax returns. He has shown agricultural income and business income in income tax return. He is doing real estate business and running liquor shop. He denied the suggestions that he has not mentioned above IP proceeding in his chief examination affidavit in OS 473/2019 on the file of JCJ, Allagadda, and also cross examination. And that he filed present IP due to IP 14/2019 filed against his wife. Further he denied other suggestions.

(d). To prove his case the 2nd Respondent examined himself as RW1, and he reiterated the contents of counter in his chef examination affidavit, and Ex.R.2 was marked. During cross examination, he deposed that there was no mention of source of title in Ex.R1. Witness adds that he enquired with Meeseva office, they stated source of title was not mentioned. Originally revenue records are maintained by Revenue authority, Tahsildar but not Meeseva authority. He is residing in the house bearing No.6-6-21. And that in Registered sale deed dated 01.11.2019 the house bearing door number of vendor (1st Respondent) mentioned as 6-6-21. And that his house door number and house door number of 1st Respondent mention in Ex.P1 are one and the same. Wife of 1st Respondent is his own elder sister. And that he got married with daughter of 1st Respondent. 1st Respondent purchased property and it is self acquired property. And that in Ex.P1, the recital mentioned that source of title is ancestral property. He paid sale consideration amount to 1st Respondent before sub registrar. He has not filed any proof to show he paid sale consideration amount to 1st Respondent. Witness adds that 1st Respondent is indebted to me for Rs.3,00,000/- and on the date of Ex.P1 the interest calculated and comes total Rs. 3,58,500/- and he paid Rs.1500/- to 1st Respondent before sub registrar, it comes total Rs. 3,60,000/-. Witness adds that after closing debt amount bond was tear. He came to know about 1st Respondent is indebted to Petitioner after receiving notice in the year 2021. He came to know about attachment before judgment over schedule property in I.A.No.888/2019 in O.S. 473/2019 on 16-10-2019 on the file of JCJ, Allagadda. He knows the 1st Respondent received notice in above suit on 30-10-2019. After receiving notice 1st Respondent executed Ex.P1 in his favour. And that himself and 1st Respondent are living one roof. He admitted that his sister filed Insolvency Petition in this court and same was dismissed. He has not filed any proof to show he is working as private teacher and getting salary of Rs. 25,000/-. At first himself and 1st Respondent engaged same advocate. Witness adds that after knowing facts they got disputes on that he engaged another advocate. He has not mentioned his chief examination affidavit about disputes him and 1st Respondent. Schedule property situated with in Allagadda town limits. He has not enquired before court whether there was any attachment over the property. And that he has filed document to prove he is in physical possession over schedule property. The facts mentioned in his chief affidavit in para 10 by paying sale consideration before sub registrar and witnesses is true and correct. The facts mentioned in his chief affidavit in para 10 by paying sale consideration before sub registrar is wrong. He denied the suggestions that there is no proof to show above fact of debt. And that the above facts are created for purpose of this case to created Ex.P1. And that after receiving notice 1st Respondent and himself are colluded and created Ex.P1 to evade debt of Petitioner. And that he was deposing false by stating after receiving notice he came to knowledge about pending of suit between 1st Respondent and Petitioner. And that after receiving notice 1st Respondent and himself are having knowledge and information about attachment over the schedule property, intentionally crated Ex.P1.

(e). The Petitioner relied up on the documents under Ex.P.1 to P.5. **Ex.P1** is Certified copy of Registered Sale Deed dated 01-11-2019 executed by 1st Respondent in favour of 2nd Respondent. The addresses of Vendor mentioned as : H.No.6-6-21, Sardhar veedhi, Allagadda and Vendee mentioned as : H.No.6-5-3/A, Kamelaa Veedhi, Allagadda. The recitals mentioned that sale consideration amount of Rs.3,60,000/- paid to Vendor, and source of title mentioned as Ancestral property, and schedule shown as follows : Sy.No.474-2 an extent of Ac.1.00 cents **Ex.P2** is Certified Copy of affidavit, and docket order dated 16-10-2019 in I.A. 888/2019 in O.S.No.473/2019 on the file of JCJ, Allagadda. Said Petition filed by the Petitioner herein against the 1st Respondent herein seeking relief for attachment before judgment respect to petition schedule property. **Ex.P3** is Certified Copy of attachment proceedings in I.A.No. 888/2019 in O.S.No.473/2019 on the file of JCJ, Allagadda. The schedule shown as follows : Sy.No.474-1 an extent of Ac.1.00 cents, and attachment effected on 30-11-2019. **Ex.P4** is Certified Copy of Adangal/pahani for the fasli 1429 obtained from Mee Seva dated 30.09.2019, stands in the name of 1st Respondent, and source of title mentioned as Ancestral property, and mentioned Sy.No. 473-2K an extent of Ac.1.00 cents. ***Ex.P5*** *is Certified Copy of Adangal/pahani for the fasli 1429 obtained from Mee Seva dated 30-09-2019, stands in the name of 1st Respondent, and source of title mentioned as Ancestral property, and mentioned Sy.No. 474-2 an extent of Ac.1.00 cents.*

(f). The evidence of PW1 goes to show that though the debt is subsisting which was covered in the Suit Ex.P2 & 3, the 1st Respondent intentionally alienated the property in favour of 2nd Respondent under Ex.P.1 to defraud the creditors and with an intention to leave jurisdiction.

When the debt is subsisting, without repaying the debt the 1st Respondent sold the property.

(g). *As per Ex.P.1, Sale Deed was registered on 01-11-2019 which executed by 1st Respondent in favour of 2nd Respondent, and the attachment over the Petition Schedule Property under Ex.P.3 effected on 30-11-2019. So, it clear that before attachment of Petition Schedule Property in O.S.No.473/2019, the registration was completed before 29 day. So, the ground taken by the Petitioner that when the debt is subsisting, the 1st Respondent sold away the Petition Schedule Property to 2nd Respondent to defraud him is not believable.*

(h). It was elicited from RW1 in his cross examination that " h*e is residing in the house bearing No.6-6-21. And that in Registered sale deed dated 01.11.2019 the house bearing door number of vendor (1st Respondent) mentioned as 6-6-21. And that his house door number and house door number of 1st Respondent mention in Ex.P1 are one and the same". As seen from the Ex.P.1, addresses of Vendor and Vendee are different. So, the admission of RW1 is stray admission, it can not be considered.*

(i). It was elicited from PW1 in his cross examination that " h*e has not verified revenue records time to time in the suit OS.473/2019. He knows the house of R1 at the time of filing of suit in OS.473/2019. He has not demanded 1st Respondent to discharge debt amount before filing above suit". Further it was elicited from PW1 that "he filed Ex.P4 and P5 which are stands in the name of 1st Respondent, and are prior to sold away property under Ex.P1. And that attachment effected on 30-12-2019 in OS 473/2019 on the file of JCJ, Allagadda". So, it clear that the Petitioner not enquired about the properties of 1st Respondent before* *filing of the Suit in O.S.No.473/2019, and as well as he did not obtained revenue records stands in the name of 1st Respondent.*

(j). The 2nd Respondent relied up on the documents under Ex.R.1 & 2. ***Ex.R1*** *is certified copy of Chief examination affidavit of Plaintiff in OS.No.473/2019 on the file of JCJ, Allagadda. There was no suggestions regard to said chief examination affidavit.* ***Ex.R2*** *is certified copy of 1-B namoona (ROR) dated 03-02-2026 stands in the name of Talari Siva Nayudu obtained from Gram Ward Sachivalaya Sakha, and mentioned Sy.No.473-2j an extent of Ac.0.37 ½ cents, 473/2k an extent of Ac.1.00 cents, 474-2 an extent of Ac.1.00 cents.*

(k). The Learned Counsel for the 2nd Respondent argued that the petition is barred by limitation. As seen from the records, the present petition was filed on 15.04.2021. The Registered Sale Deed executed by the 1st Respondent on 01-11-2019 in favour of 2nd Respondent. So, it clear that there is gap between the date of filing of the above Petition, and Sale Deed is one year, four months & four days. So, the above Petition is not filed with in limitation.

(l). ***Section 9 in The Provincial Insolvency Act, 1920, reads as follows: 9. Conditions on which creditor may petition***

(1) A creditor shall not be entitled to present an insolvency petition against a debtor unless

(a) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors, amounts to five hundred rupees, and

(b) the debt is a liquidated sum payable either immediately or at some certain future time, and

(c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition:

[Provided that where the said period of three months referred to in clause (c)expires on a day when the Court is closed, the insolvency petition may be presented on the day on which the Court re-opens.] [Added by Act 3 of 1950, Section 6 (w.e.f. 18.2.1950).]

(2) If the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent, or give an estimate of the value of the security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor*.*

Section 9(1) (c) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

(m). *The decision relied up on by the Learned Counsel for the 2nd Respondent reported in:* **2011 (6) ALD 527** in case of K.Konda Reddy Vs K.Thirupalamma W/o K.V.Golla Reddy, K.C.Golla Reddy S/o Chinna Narayana and K.Subbamma W/o Pedda Hanumantha Reddy. Wherein held in that “ Therefore, the learned Counsel for the appellant contends that it is not 90 days that has to be taken into consideration. Evidently, the months of July and August have got 31 days and consequently, the number of days in that month is not the criterion and the month alone is the criterion. In this connection, he relied upon a decision reported in In re v. S. Metha, AIR 1970 AP 234, wherein it was held by the Division Bench of High Court that the expression "month' in the statute does not necessarily mean 30 days but goes according to the Gregorian Calendar unless the context otherwise requires. Therefore, when the period of three months was mentioned under Section 106 of the Factories Act in that case, the Court held that it does not mean 90 days and it means three calendar months”.

The above decision is applicable to the present case on hand . As present petition is not filed within 3 months.

(n). In view of above discussion, and admissions of PW1, this court concludes and hold that the Petitioner failed to prove his case that debt is subsisting, when the 1st Respondent by transferring his property to the 2nd Respondent committed an act of insolvency, and the Petitioner is not entitled for the relief to annul the sale transaction dt.01.11.2019 made by the 1st Respondent in favour of 2nd Respondent, as stated above.

Therefore, the points 1 to 3 answered against the Petitioner.

9. In the result, the Insolvency Petition is dismissed. No costs.

Typed to my dictation by the Stenographer Gr-II, corrected and pronounced by me in the open Court, this the 08th day of May, 2026.

Sd/-. S.Sailaja,
CIVIL JUDGE (SENIOR DIVISION),
ALLAGADDA.

APPENDIX OF EVIDENCE
Witnesses Examined

For Petitioner:-
P.W.1: K. Venkata Ram Gopal Reddy

For Respondents:-
R.W.1: T. Siva Naidu

EXHIBITS MARKED

For Petitioner:-

Ex.P.1: Certified Copy of Registered Sale Deed dt.01-11-2019 executed by 1st Respondent in favour of 2nd Respondent.

Ex.P.2: Certified Copy of Affidavit and docket order dated 16.10.2019 in I.A.No.888/2019 in O.S.No.473/2019 on the file of JCJ, Allagadda.

Ex.P.3: Certified Copy of attachment proceedings in I.A.No.888/2019 in O.S.No.473/2019 on the file of JCJ, Allagadda.

Ex.P.4: Certified Copy of Adangal/Pahani for fasli 1429 obtained from Mee Seva dated 30.09.2019 for Sy.No.473-2K.

Ex.P.5: Certified Copy of Adangal/Pahani for fasli 1429 obtained from Mee Seva dated 30.09.2019 for Sy.No.473-2.

For Respondents:-

Ex.R1: *Certified Copy of Chief examination affidavit of Plaintiff in OS.No. 473/2019 on the file of JCJ, Allagadda.*

Ex.R2: Certified copy of 1-B namoona (ROR) dated 03.02.2026 stands in the name of Talari Siva Nayudu obtained from Gram Ward Sachivalaya Sakha.

Sd/-. S.Sailaja,
CIVIL JUDGE (SENIOR DIVISION),
ALLAGADDA.