

IN THE COURT OF SENIOR CIVIL JUDGE, MIRYALAGUDA

(Dated, this, the 3rd day of May, 2024)

PRESENT: SRI B. SUJAY
SENIOR CIVIL JUDGE
MIRYALAGUDA

I.P.No. 13 OF 2022

Between:

Gouti Manoj Kumar S/o Mallesh, Aged 26 years, Occ: Nil, R/o
H.No.33-221, Rajinagar colony, Miryalaguda town and Mandal,
Nalgonda District.

... Petitioner

And

1. Nangunuru Nagesh S/o Venkateshwarlu, aged 43 years, Occ Centering Work, R/o Rajivnagar Colony, Miryalaguda town and Mandal, Nalgonda District.
2. Md. Taj Baba S/o Dildar, aged 43 years, Occ: Business, R/o Rajivnagar Colony, Miryalaguda town and Mandal, Nalgonda District
3. Bayya Showdaiah S/o Not Known, aged 45 years, Occ: Hotel Business, R/o Opp Adithya Rice Mill, Shettipalem X Road, Miryalaguda town and Mandal, Nalgonda District
4. Chilukuri Laxmi Bai W/o Narender, aged 47 years, Occ: Private Chit Business, R/o Rajivnagar Colony, Miryalaguda town and Mandal, Nalgonda District
5. Bantu Santhosh S/o Not Known, aged 37 years, Occ: Rice Broker, R/o Gandhinagar, Miryalaguda town and Mandal, Nalgonda District
6. Bhonagiri Madhu S/o Not Town, aged 38 years, Occ: Finance Business, R/o Shabunagar, Miryalaguda town and Mandal, Nalgonda District

7. K. Harish S/o Not known, aged 25 years, Occ: Business, R/o Chaitanyanagar, Miryalaguda town and Mandal, Nalgonda District
8. Midathapally Suresh S/o Saidulu, aged 38 years, Occ: Finance Business, R/o Kondrapole Village of Damaracherla Mandal, Nalgonda District
9. Gutha Charan Reddy S/o Not known, aged 35 years, Occ: Business, R/o Baghyanager Colony, Miryalaguda town and mandal, Nalgonda District
10. Bantu Lokesh S/o Not known, aged 32 years, Occ: Tiffin Centre, R/o Shabunagar, Miryalaguda town and Mandal, Nalgonda District
11. Irugu Yadagiri S/o Muthaiah, aged 43 years, Occ: Business, R/o Rajivnagar Colony, Miryalaguda town and Mandal, Nalgonda District
12. Kommuri Anil kumar S/o Bhagavantha Rao, aged 33 years, Occ: Employee in Reddy's lab, Rio Chaitanyanagar, Miryalaguda town and Mandal, Nalgonda District
13. Malothu Balu Nalk S/o Not known, aged 48 years, Occ Finance Business, R/o Edukotla thanda of Miryalaguda Mandal, Nalgonda District
14. Lingala Venkatesh S/o Nagaraju, aged 25 years, Occ: Private Employee, R/o Rajivnagar, Miryalaguda town and Mandal, Nalgonda District, presently residing at New Bus Stand, Jadcherla village and Mandal, Mahaboobnagar District
15. Pola Ganesh S/o Not known, aged 25 years, Occ: Electrician, R/o Ramnagar, Miryalaguda town and Mandal, Nalgonda District
16. Beduduri Manideep Reddy S/o Not known, aged 25 years, Occ Electrician, R/o Venkatadripalem village of Miryalaguda Mandal, Nalgonda District

17. Lalitha W/o Not known, aged 38 years, Occ: Cook, R/o Bangarigadda, Miryalaguda town and Mandal, Nalgonda District
18. Miryala Uday Kiran S/o Kondaiah, aged 33 years, Occ: Business, R/o C/o Old Bus Stand, Miryalaguda town and Mandal, Nalgonda District
19. Cheedella Srinivas S/o Not known, aged 43 years, Occ: Business, R/o Vasavi Bhavan Road, Beside Oil Mill, Miryalaguda town and Mandal, Nalgonda District
20. Kajjam Srinivas S/o Not known, aged 48 years, Occ: Mirchi Business, R/o Vasavi Bhavan Road, Beside R.R. Chicken Centre, Miryalaguda town and Mandal, Nalgonda District
21. Katakam Venkateshwarlu S/o Hanumanthu, aged 55 years, Occ: Business, R/o Ganesh market, Miryalagudda town and Mandal, Nalgonda District
22. Tallam Venkanna S/o Prasad, Aged: 38 years, Occ: Business, R/o Main Bazar, Miryalaguda town and Mandal, Nalgonda District.

... Respondents

This petition coming before me for final hearing in the presence of Sri Md. Ibrahim, the learned Counsel for the petitioner and R1 to R5, R7, R8, R10, R12, R13, R15 to R21 remained exparte, petition dismissed against R6, R9, R11, R14, R22 and after having stood over for consideration today this court doth pronounce the following:-

: O R D E R :

1. This petition filed by petitioner to adjudge the petitioner as an insolvent and he may be discharged from all liabilities debts outstanding payable to the respondents/creditors, who are respondents No.1 to 22.

2. The brief case of the petitioner is that:

(i) It is submitted that the petitioner is inhabitant of Miryalaguda town and Mandal, Nalgonda District. On the advise of friends and well wishers of the petitioner, the petitioner started Kirana Shop business under the name and style of Sri Bhavani Kiranam at Ganesh Market, Miryalaguda town and Mandal, Nalgonda District by spending huge amounts. The said kirana business of the petitioner is running is very good. For development of his business and carrying business with more profits, the petitioner borrowed the amounts from the respondents by executing the demand promissory notes and blank cheques in favour of them by the petitioner.

(ii) While things stood like so since due to COVID-19 Pandemic situation, there is a lock down long period as such the petitioner sustained heavy loss in the said business. As such the petitioner indebted the amounts borrowed from the respondents.

(iii) In view of said losses the petitioner happened to borrowed several amounts from the several persons with heavy rate of

interest so as to continue his business with a pond hope that he can recover from his losses by doing further business. The petitioner also used to borrow amounts some times for the purpose of discharging the loans of some creditors whenever there was a pressure from the said creditors. In the said process the petitioner fell due amounts to the respondents as fallows:

SCHEDULE "A" PROPERTY

1.	Nangunuri Nagesh	3,00,000-00
2.	Md. Taj Baba	3,00,000-00
3.	Bayya Showdaiah	50,000-00
4.	Chilukuri Laxmi Bai	80,000-00
5.	Bantu Santhosh	2,10,000-00
6.	Bonagiri Madhu	50,000-00
7.	K. Harish	60,000-00
8.	Midthapally Suresh	2,00,000-00
9.	Butha Charan Reddy	1,00,000-00
10.	Bantu Lokesh	1,00,000-00
11.	Irugu Yadagiri	1,00,000-00
12.	Kommuri Anil Kumar	1,50,000-00
13.	Malothu Balu Naik	2,00,000-00
14.	Lingala Venkatesh	1,50,000-00
15.	Pola Ganesh	50,000-00
16.	Bedudhuri Manideep Reddy	70,000-00
17.	Lalitha	1,00,000-00
18.	Miryala Uday Kiran	20,000-00

19. Chedalla Srinivas	2,10,000-00
20. Kajjam Srinivas	33,000-00
21. Katakam Venkateshwarlu	65,000-00
22. Tallam Venkanna	28,000-00
Total	26,26,000-00

(iv) The petitioner also could not carry out his business due to the accumulation of losses and therefore he stopped his business.

(v) The petitioner lost his hopes that he could continue the business and discharge the debts of the respondents since the petitioner has no properties with him. More particularly, the respondents started pressurizing the petitioner for discharge of due amounts. In these circumstances, the petitioner lost his hope that he could continue his business and discharge the debts of the respondents shown in schedule A' of this Insolvency Petition, since the petitioner has no sufficient properties of any nature, except the properties shown in schedule 'B' as follows:

SCHEDULE "B" PROPERTY

- a. One Activa 6 G bike No.TS-05-FK-2415, value of Rs.50,000/-
- b. Wearing cloths i.e., 2 pants and 2 shirts

(vi) The petitioner also is unable to discharge the debts of the respondents, since he has no property with him. More particularly, the respondents also started pressurizing the petitioner. In these circumstances, the petitioner lost his hope that he could continue the business and discharge the debts of the respondents shown in Schedule "A" , since the petitioner has no properties of any nature, except the properties shown in schedule "B" for the said purpose. If the petitioner is not declared as Insolvent, the petitioner foregut his fundamental right of personal liberty. Hence, the petition.

3. In this case, inspite of receiving notices, the respondents No.1 to 5, 7, 8, 10, 12, 13, 15 to 21 did not chose to appear before this court and as there is no representation, hence, they were remained exparte on 31.03.2023. Inspite of giving ample opportunities, as the

petitioner failed to pay process, this court dismissed the petition against respondents no.9, 9, 11, 14, 22 on 29.01.2024.

4. In order to prove his claim, the petitioner got examined himself as PW1, but no documents were marked.

5. Heard and perused the record.

6. Now the point for consideration is : ***“Whether the petitioner is entitled to seek the relief as prayed for?”***

LEGAL POSITION:

As per settled legal position when the assets are less than liabilities of a person, he may seek for declaration as insolvent.

7. **POINT:**

(i) In this case, petitioner is submitting that he is not having any assets except Schedule “B” Property and also Schedule “C” Property i.e., no LIC policies and no bank balance amount except the schedule B property, but having liabilities to a tune of Rs.26,26,000/-. None of the respondents appeared and contested the claim of petitioner.

(ii) PW-1 reiterated his case and submitted that B schedule properties are only available to be sold and the sale amount could be disbursed among the creditors proportionately.

(iii) The unchallenged and unrebutted testimony of PW-1 is believed because none of the respondents/creditors turned up to contest that the petitioner got means or assets. Creditors are not one or two in number, but they are twenty two creditors. According to the version of the petitioner he is due to each of them as per details in the schedule "A" extracted above. Since they did not contest, this court believes the version of petitioner.

(iv) In view of above facts and circumstances, the petitioner is entitled to seek relief as prayed for.

8. In the result, this petition is allowed declaring petitioner as an insolvent. Time for discharge is one year from the date of this order.

Typed to my dictation by the Stenographer, corrected and pronounced by me in the open Court on this the 3rd day of May, 2024.

**SENIOR CIVIL JUDGE
MIRYALAGUDA**

:: APPENDIX OF EVIDENCE ::
WITNESSES EXAMINED

FOR THE PETITIONER:

PW-1: Gouti Manoj Kumar

FOR THE RESPONDENTS:

- NONE -

: EXHIBITS MARKED :

FOR THE PETITIONER:

- NIL -

FOR THE RESPONDENTS:

- NIL -

SENIOR CIVIL JUDGE
MIRYALAGUDA