

APKD010004902024



**IN THE COURT OF PRINCIPAL CIVIL JUDGE
(SENIOR DIVISION), KADAPA.**

**Present:- Smt.K.Prathusha Kumari,
Principal Civil Judge (Senior Division), Kadapa.**

Friday, this the 14th day of August, 2026.

Insolvency Petition No.53 of 2024.

Between:

Shaik Karimulla, S/o. Shaik Khader Valli, Aged about 46 years, Real Estate Business (previously), r/o. Flat No.112, Image towers, Prakash nagar, Kadapa town and Mandal, YSR Kadapa District.

... Petitioner / Debtor

And;

1. B.Inaiah, S/o. B.Bala Swamy, Aged about 45 years, Hindu, r/o. D.No.12/37, Mariapuram, Ravindra Nagar, Kadapa City, YSR Kadapa District.
2. Bala Hrudaya Raju, Aged about 45 years, Hindu, r/o. D.No.5/42, Nabikota, Kadapa, YSR Kadapa District.
3. Shaik Tanveer Ahammad, Aged about 42 years, Muslim, r/o. Bahadur Khan Masjid, Kadapa City, YSR Kadapa District.
4. Chakradar, S/o. Naganna, Aged about 28 years, Hindu, r/o. D.No.58/594, Housing Board Colony, Kadapa City, YSR Kadapa District.
5. Rasool Khan, Aged about 38 years, Muslim, r/o. D.No.7/42, near Murthy Studio, Kadapa City, YSR Kadapa District.
6. Narasimha Kumar, Aged about 49 years, Hindu, r/o. D.No.3/128, near Cooperative Colony Masjid, Kadapa City, YSR Kadapa District.

7. Anjaneyulu, Aged 30 years, Hindu, r/o. D.No.1/21-1-2, Jammalamadugu Mandal, Y.S.R. Kadapa District.
8. Vijaya Lakshmi, W/o. Gangadhar, Aged about 30 years, Hindu, Staff Nurse in SVIMS Hospital, Tirupati town, Chittoor District.
9. Sandhya, Aged about 35 years, Hindu, Staff Nurse in SVIMS Hospital, Tirupati town, Chittoor District.
10. Prasanna, W/o. Thiru, Aged about 35 years, Hindu, Staff Nurse, SVIMS Hospital, Tirupati, Chittoor District.
11. Vara Lakshmi, Aged about 35 years, Hindu, Staff Nurse, SVIMS Hospital, Tirupati, Chittoor District.
12. Syed Habeeba, Aged about 35 years, Muslim, Staff Nurse, SVIMS Hospital, Tirupati, Chittoor District.
13. Chandrakala, Aged about 34 years, Hindu, Staff Nurse in SVIMS Hospital, Tirupati town, Chittoor District.
14. Shaik Noor Ahammad, S/o. Shaik Nabi Rasool, Aged 35 years, Muslim, working as a 2D Eco Technician, Narayana Hospital, Nellore, r/o. D.No.18-4-20, Srikaramvari Veedhi, Chinna Bazaar, Nellore District.
15. Ankaiah, Aged 55 years, Hindu, r/o. Nellore District.
16. Mallapu Venu Gopal, S/o. Ramesh, Aged 25 years, Hindu, r/o. Yeruru village and Post, Nellore District.
17. Dudekula Rasool, S/o. D.Nanaiah, Aged about 25 years, Dudekula, r/o. D.No.22, Pedda Nalla Kaluva, Thirumella, Prakasam District.
18. Syed Azeez Basha, S/o. Ghouse Basha, Aged about 42 years, Muslim, r/o. D.No.17-09-50, Markaz Masjid Street, Islampet, Tenali District.
19. N.Kasi Rao, S/o. Nagam Kashaiah, Aged about 25 years, Hindu, r/o. D.No.2-57, Jaggambotla Krishnapuram, J.Krishnapuram, Prakash Nagar, Prakasam District.

. . . Respondents / Creditors.

This petition has come up before me on 07.5.2026 for final hearing in the presence of **Sri.K.Venu Gopal**, counsel for Petitioner and the respondent Nos.1, 3, 5 to 7, 9 to 14, 16, 17 and 18 are set exparte and petition against respondent Nos.2, 4, 15 and 19 was dismissed and the petition against respondent No.8 was abated and upon perusing the material papers on record, after hearing on petitioner's side and having stood over for consideration till this day, this Court delivered the following:-

ORDER

This is an insolvency petition filed by a debtor / petitioner under Section 10 of the Provincial Insolvency Act, 1920 seeking to adjudicate him as an insolvent and discharge him from the debts of respondents No.1 to 19 shown in the petition "A" schedule.

2. In brief, the averments of the petition filed on behalf of petitioner are that, he did real estate business and used to sell and buy lands, house sites, houses and plots in surrounding of Kadapa District and other districts. During the course of his business, to improve the same, he approached some of the respondents and borrowed amounts from them on heavy rate of interest by executing promissory notes and he invested the same in the business and initially, his business ran very well and he used to pay the interest to the respondents, but subsequently who took the advance amount from him with mutual trust and understand without executing any agreements, suddenly evaded to register the properties in favour of the petitioner and not returned the amount to him. He made sincere efforts to recover the amounts from them, but due to their high political pressure

and power, he failed to get money from them and due to their fraudulent activities, he sustained heavy loss and further due to sudden fall of prices in real estate business, gradually the business became bad to worse causing irreversible loss.

(a) The petitioner also did business in purchasing and selling sheep and goats for profit in surrounding of Kadapa District and other districts. During the course of business, to improve the business, he obtained hand loans from the respondents No.7, 8, 10 to 14 on heavy rates of interest, who took blank cheques. The petitioner invested the same in his business. Though the business of the petitioner ran well initially, subsequently who purchased the goats and sheep from the petitioner with mutual trust and understand have evaded the payments and thereby caused sustainable loss and also due to heavy rains and thunderstorms more than fifty to hundred sheep were died but he did not get any compensation from the government. Gradually, the business of the petitioner became bad to worse causing irreversible loss. Right now, he became penniless heavy loss in his business. He made sincere efforts to recover the amounts due to him, but they have completely evaded the same. At present the petitioner has no means to discharge the debts of the respondents, which is well known to all the respondents.

(b) All the respondents approached to the petitioner and demanded him to pay the debts amount, in spite of the petitioner paid some of the amounts to the respondents. He almost paid the principal amount to the respondents but they did not enter the same on reverse

of the promissory notes. The respondents started harassing and insulting him in public and also creating nuisance in his house and also humiliating his family members. Some of the respondents even assaulted and abused him with filthy language. Even if the petitioner takes up a job, he will not be in a position to clear the loans. He has the amounts due to respondents in 'A' schedule. He made his best efforts to clear the debts shown in the 'A' schedule, but he has no capacity to discharge the same as his liabilities are much higher than his assets possessed by him. The respondents, who received the blank cheques from the petitioner is pressing him to clear the debts, lest they will misuse those cheques. He is not having any movable and immovable properties in his name and the liabilities of the petitioner are much higher than the assets. The petitioner has not suppressed any material facts and he has not in physical possession of any movable and immovable properties except the property shown in 'B' Schedule. He has not disposed off any movable and immovable properties prior to filing of this Insolvency petition. He has not presented any insolvency petition in any court so far. Under these circumstances, he has no other option except to file this insolvency petition to adjudicate him as an insolvent. Thus, the petition.

3. The respondents Nos.1, 3, 5 to 7, 9 to 14, 16, 17 and 18 are not contested the I.P. and remained set exparte. The Petition against respondent Nos.2, 4, 15 and 19 was dismissed for non payment of process to issue notice inspite of granting sufficient time, conditional order and imposing costs and the petition against respondent No.8 was abated as he was reportedly died and no steps

have taken to implead his L.Rs.

4. During the inquiry, the petitioner is examined himself as PW.1 and no documents marked on his behalf.

5. Heard the counsel for the petitioner.

6. Now the point for consideration is ;

Whether the petitioner has satisfied the essential elements to declare him as an insolvent and discharge him from the petition "A" schedule debts ?

7. **Point:-**

As mentioned supra, none of the respondents are contested the insolvency petition and all of them are remained exparte except the respondents Nos.2, 4, 15 and 19, against whom the I.P. was dismissed for default, against respondent No.8 as abated. However, merely because the respondents are remained exparte / silent, the oral evidence of PW.1 cannot be considered as substantive in nature without summarily proving the contentions made by him and essential elements required under Section 10 of the Provincial Insolvency Act.

8. The petitioner being PW.1 has reiterated his evidence during his chief examination affidavit as it is as per averments of the petition. It is the specific case of the petitioner that he did real estate business and also business regarding buying and selling of sheep and goats in surroundings of Kadapa and other districts, but no document has been placed to show that he purchased or sold lands / houses /

plots, etc., sheep / goats like sale deeds, agreements, payment slips. Further, though the petitioner contended that he borrowed petition 'A' schedule amounts from the respondents on heavy rate of interest by executing promissory notes, no proof of document like copy of promissory note stated to have executed in favour of any of the respondent is placed before the Court to substantiate the same. Further, no scrap of evidence is placed showing that he sustained heavy loss in both the businesses. The petitioner also failed to place any proof of document like PhonePe slip / google pay / bank slip showing that he paid interest amount to the respondents. So also, copies of cheques or at least cheque numbers stated to have issued by the petitioner to the respondents Nos.7, 8, 10 to 14 towards discharge of their debts are not placed / furnished by the petitioner. Further, no other oral evidence of his relatives, neighbours or employees, except the own testimony of the petitioner is placed to substantiate his contention. To run a business one has to obtain GST / CST permission from the concerned Sales Tax Department, but no such license or permission is placed by the petitioner to show that he did two businesses. Further, a single person cannot run two businesses without engaging employees to assist him. In this case there is no whisper made by the petitioner either in the petition or in his evidence whether he solely did two businesses or by engaging employees he did the same. The details of business office are also not disclosed by the petitioner. More so, copy of report if any given by the petitioner against the respondents who are threatening and pressurizing him by using physical force to discharge their debts. In fact, there is no reference made by the petitioner whether he has given

any report against those respondents. Moreover, no evidence is placed whether his family is resident of own house or in a rented house and if so, how much rent is paying.

9. As per the averments of the petition, the petitioner borrowed petition "A" schedule mentioned debts to a tune of Rs.40,75,000/- from the respondent Nos.1 to 19 basing on promissory notes, hand loans and cheques. According to petition "B" schedule properties owned by the petitioner, there are 5 pairs of clothes, 1 cooler, one television and refrigerator, all worth of Rs.67,000/-. Thus, except the oral testimony of PW.1, absolutely there is no evidence placed before the Court to prove that he borrowed the amounts from the respondents, invested the same in his real estate and sheep / goat business and sustained heavy loss. Further, none of the attestors or scribes of any of promissory notes stated to have executed by him in favour of some of the respondents is examined in support of the contention of petitioner. Further, the petitioner failed to place any evidence that due to heavy rains and thunderstorms more than fifty to hundred sheep of the petitioner were died. Thus, absolutely there is no evidence showing that the petitioner has indebted petition "A" schedule debts to the respondent Nos.1 to 19 and he has no means and capacity to discharge the same.

10. On this aspect, it is relevant to extract the observations of the Hon'ble High Court of A.P. held in the case of **T.Chandrasekharaiah Vs. D. Sreeramulu Chetty, 2005 (1) ALT 407** wherein it is held that

“The requirement U/Sec.10 of Provincial Insolvency Act that the debtor is unable to pay his debts, has to be proved, atleast prima facie, to the satisfaction of the court and this inturn is different from mere assertion, by the debtor himself”.

11. Further, the Division Bench of Hon'ble High Court of A.P., in the case of **Bonagiri Yellalu Vs Nagulavaram Chenchu Subbaiah**, AIR 1972 A.P., 221 has held that **“Unless the debtor proves to the satisfaction of the court about his inability to pay the debts, he is not entitled to be declared as an insolvent”.**

12. In the instant case, except the oral self serving testimony of PW.1, absolutely there is no evidence substantial in nature placed by the petitioner to prove his case and also the essential elements to declare him as an insolvent. Therefore, no merits find in the case of petitioner and it is not a fit case to declare him as an insolvent. Thus, the petition is liable to be dismissed, however without costs considering the facts and circumstances of the case. Accordingly, the point is answered against the petitioner.

13. In the result, the Insolvency Petition is dismissed without costs.

Directly typed to my dictation by the Stenographer Grade-II, corrected and pronounced by me in the open Court, this the 14th day of August, 2026.

**Sd/- K.Prathusha Kumari,
Principal Civil Judge
(Senior Division), Kadapa.**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For petitioner:

PW.1: Shaik Karimulla.

For respondents :

Exparte

DOCUMENTS MARKED

For petitioner:

- Nil -

For respondents : - Nil -

Sd/- K.Prathusha Kumari,
P.C.J.(SD),
Kadapa.