

**Insolvency Case no. 168of 2024**  
**(CNR WBSP01-016514-2024)**

**Order No.03 dated 23.12.2024:**

Record is put up today on the prayer of a put up petition filed by the creditor / petitioner.

The creditor/ petitioner files hajira.

The Ld. Counsel for the petitioner prays for moving the application for passing order under Section 5 read with Section 21 of the Provincial Insolvency Act, 1920.

The petition under Section 5 read with Section 21 of the Provincial Insolvency Act is taken up for hearing. It is submitted by the petitioner that the debtor/O.P. took loan of Rs. 1,90,000/- by executing a promissory note dated 09.03.2022 and Rs. 1,95,000/- dated 12.11.2022 as accommodation loan without any interest with a further promise to repay the same before three months of his retirement i.e. 31.12.2024. The O.P., however, failed to repay the loan after expiry of the period as mentioned above even after repeated demands and in spite of receipt of the demand notice he deliberately suspended the payment in favour of the petitioner. Now, the petitioner due to good reason believes that the O.P. may leave the local jurisdiction of the Court anytime by depriving him of the money. The O.P. is going to retire from his service on 31.12.2024 and the creditor / petitioner has been able to ascertain that the O.P. an amount of Rs.3,85,000/- is likely to be paid by the disbursing authority, the employer of the O.P. i.e., The General Manager and Payroll Treasury Officer, CESC House, CESC LTD, 1 Chowringhee Road, Kolkata-700001 and the petitioner prays for passing an order to realize a sum of Rs. 3,85,000/- from the retirement benefit of the debtor/O.P. till realization of the petitioner's claim and to withhold the realized amount in his custody till disposal of this case.

Heard. Perused through the record and the documents filed.

From the photocopy of promissory note submitted by the petitioner it appears that the Debtor/opposite party no.1 has borrowed an amount of Rs.3,85,000/- in total by executing two promissory notes dated 09.03.2022 and 12.11.2022 as accommodation loan without any interest from the creditor/petitioner under his signature with a promise to repay the same before three months of his retirement. The opposite party no.1, however, failed to repay the said amount in spite of repeated insistence on the part of the petitioner and the petitioner came to know that he shall retire from his service on 31.12.2024. The opposite party no.1 further refused to receive the demand notice sent to him in this regard.

As Section 5 of the Provincial Insolvency Act is based on the powers of the Civil Court, relying on the principles of the C.P. Code governing protective temporary orders to prevent injury to the petitioner/plaintiff, I accordingly hold that the petitioner has a prima facie case which can be substantiated. Hence, he can be given the protection of temporary relief prayed for by him.

Considering all, hence, it is,

**o r d e r e d**

that the petition under Section 5 read with Section 21 of the Provincial Insolvency Act,1920 dated 16.12.2024 is allowed.

Let there be an order for withholding the amount of Rs.3,85,000/- from the retirement benefits of the opposite party no.1 till disposal of the case.

The Opposite Party no.2 being The General Manager and Payroll Treasury Officer, CESC House, CESC LTD, 1 Chowringhee Road, Kolkata-700001 is directed to withhold an amount of Rs.3,85,000/- from the retirement benefits of the opposite party no.1 Sri Goutam Kumar Thakur out of entire retirement benefit money and the opposite party no.2 is prohibited to release such amount to the opposite party no.1 on his retirement till further orders.

Let a copy of this order be sent The General Manager and Payroll Treasury Officer, CESC House, CESC LTD, 1 Chowringhee Road, Kolkata-700001 for information and necessary compliance.

Petitioner to file requisites for service of notice.

To date i.e,13.01.2025 for appearance and S/R.

Dictated and corrected by me

Additional District Judge  
3<sup>rd</sup> Court, Alipore

Additional District Judge

3<sup>rd</sup> Court, Alipore

*Memo No.*

*Date:-*

*Copy sent to :-*

The Kolkata Municipal Corporation at 5, S.N.Banerjee Road, Kolkata-13 for information.

Additional District Judge  
3<sup>rd</sup> Court, Alipore