

G. Mudappa and ors. Vs. S. Parameswara Bhat and ors.

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Court : Chennai

Decided On : Aug-22-1924

Reported in : AIR1925Mad242

Appellant : G. Mudappa and ors.

Respondent : S. Parameswara Bhat and ors.

Judgement :

Venkatasubba Rao, J.

1. The appellants before us were adjudicated insolvents, by an order of the District Judge, dated the 14th March, 1924. The petition in insolvency was filed on the 13th November, 1922, by a creditor to whom about Rs. 20,000 was due by the insolvents. Various adjournments were obtained on the ground that the debtors were settling with their creditors. One of these orders of adjournments was made on the 4th February, 1924. It is specifically mentioned in it that ' no further adjournment will be granted, beyond the 25th February, to which date this (that is the petition), is finally adjourned.' It is clear that the procedure prescribed by Section 24 of the Provincial Insolvency Act was followed and the learned Judge gives a finding that the insolvents committed an act of insolvency. As regards this there can be no doubt, because Exhibit A, which is a notice issued by the debtors, previous to the filing of the petition contains a statement, that the debtors were unable to pay their debts. It would, however, appear that the petitioning creditor,

having settled his claim with the insolvents, applied to the Court for permission to withdraw his petition. Under Section 14 of the Provincial Insolvency Act, no petition shall be withdrawn without the leave of the Court. The Court refused leave and passed the order of adjudication. There is nothing irregular in this and we see no ground for setting aside the order. Some minor grounds have been feebly urged, by the learned Vakil for the insolvents ; but we find they have not been taken in the Memorandum of Appeal and we do not think it necessary to discuss them. The appeal is dismissed with costs of the respondents, which will come out of the estate.

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