

In Re: Ballar Chand Serojee

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Court : Kolkata

Decided On : Aug-08-1922

Reported in : 80Ind.Cas.651

Judge : Greaves, J.

Appellant : In Re: Ballar Chand Serojee

Judgement :

Greaves, J.

1. This is an application by a creditor to annul the adjudication order, dated the 21st June 1922 made at the instance of the insolvent himself.
2. The facts are as follows: On the 22nd February 1919 the insolvent was adjudicated on his own petition. On the 12th May 1919 he filed a schedule but failed to apply for his discharge within the time provided by the Act and his adjudication was annulled on the 9th May 1922.
3. As already stated his second adjudication took place some five or six weeks after, viz., on the 21st June, on the same facts and on the same materials, so far as I can gather, upon which the order of adjudication had been made.
4. Under these circumstances it seems to me that I ought to annul the order of adjudication for the reasons stated in the case of *Mal Chand v. Gopal Chandra*

Ghosal 39 Ind. Cas. 199 : 21 C.W.N. 298 : 25 C.L.J. 88 : 44 C. 399. It is suggested on behalf of the insolvent that this is not good law having regard to the subsequent decision of the Judicial Committee in Chhatrnpat Singh Dugar v. Kharag Singh Lachmiram 39 Ind. Cas. 788 : 21 C.W.N. 497 : 21 M.L.T. 96 : 15 A.L.J. 87 (1917) M.W.M. 100 : 32 M.L.J. 1 : 19 Bom. L.R. 174 : 25 C.L.J. 215 : 10 Bur. L.T 25 : 44 C. 535 : 44 I.A. 11. (P.C.), but so far as I can see that case was decided by the Judicial Committee on the ground that an order of adjudication was refused because of misconduct of the debtor which they point out should be dealt with at the time he applies for his discharge; but it seems to me that the facts of the present case and of the case of Mai Chand v. Gopal Chandra 39 Ind. Cas. 199 : 21 C.W.N. 298 : 25 C.L.J. 88 : 44 C, 399, to which I have just referred, stand on quite a different ground, and, in accordance with the decision in Mai Chand v. Gopal Chandra 39 Ind. Cas. 199 : 21 C.W.N. 298 : 25 C.L.J. 88 : 44 C, 399, I set aside the adjudication.

5. The applicant is entitled to the costs of the application.

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