In the matter of Part V of the Bankruptcy Act 1995 (Cap 20) v In the matter of an application for an Interim Order v in the matter of a Voluntary Arrangement by Lek Kee Meng [2001] SGHC 187

Case Number : OS No 600076 of 2001
Decision Date : 17 July 2001
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : —
Parties : —

Judgment:

1. The appellant applied for an interim order under s 45 of the Bankruptcy Act. The object was to appoint a nominee to act in relation to making a private arrangement to settle his debts.

2. The application went before the senior assistant registrar on 28 May 2001. Counsel for various creditors attended and Mr. Kirpal Singh, counsel for the appellant objected on the ground that they had no *locus standi*.

3. Nonetheless, the senior assistant registrar ordered the appellant to serve the application and the supporting affidavit on the creditors within seven days and that the creditors be given 14 days to reply to the affidavit.

4. Against that order the appellant appealed. His sole ground was that under r 72 of the Bankruptcy Rules, only a creditor who has filed a bankruptcy petition and the nominee who has agreed to act have a right to be heard. Rule 72 reads as follows:

> "72. – (1) The applicant for an interim order shall give at least 2 clear days' notice of the hearing –
>
> > (a) to any creditor who has presented a bankruptcy petition against him; and
> >
> > (b) to the nominee who has agreed to act in relation to the applicant's proposal."

5. I do not think that r 72 should be interpreted as placing a restriction as to who may be heard. It merely directs that the persons specified there be given at least two clear days' notice of the hearing.

6. If the court hearing the application is to exercise his discretion properly, all relevant matters ought to be placed at his disposal and this must include the views of the creditors. I am fortified in my view by the wide effect of an interim order under the Act as set out in s 47. That section provides as follows:

> "47. – (1) At any time when an application under section 45 for an interim order is pending, the court may stay any action, execution or other legal process against the debtor in respect of whom the application has been made or the property of such debtor.

(2) Any court in which proceedings are pending against a debtor may, on being satisfied that an application under section 45 for an interim order has been made in respect of the debtor, stay the proceedings or allow them to continue on such terms as the court may think fit."

The court is entitled to direct that the application be served on any interested party and that party be at liberty to address the court as part of the terms of the order.

7. Accordingly, this appeal was dismissed.

Sgd:

Choo Han Teck
Judicial Commissioner

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