

Present: Pereira J. and Shaw J.

ALI MARIKAR v. ARUNACHALAM CHETTY.

141—D. C. Colombo, 2,574.

Insolvency—Opposition to granting of certificate—Notice should specify grounds—Insolvency Ordinance, s. 124.

In a notice of opposition given under section 124 of the Insolvency Ordinance to the granting of a certificate of conformity to the insolvent, it is necessary that the particular acts of the insolvent relied on as grounds of opposition should be specified in precise and definite terms.

Bawa, K.C., for insolvent, appellant.

F. H. B. Koch, for respondents.

Cur. adv. vult.

December 14, 1914. PEREIRA J.—

I think that the disclosures elicited from the insolvent at his last examination under the Insolvency Ordinance, No. 7 of 1853, sufficiently support the order made by the District Judge refusing him a certificate of conformity, and I would dismiss the present appeal with costs. At the same time I should like to observe that the grounds of opposition set forth in the notice of opposition given by the respondents are expressed in terms much too vague to be of any use. I presume that notice of opposition in a case like this is given under section 124 of the Ordinance. That section does not expressly require that the grounds of opposition should be set forth in the notice of opposition, but I understand that it is done in pursuance of a well-established practice of the Court. If such a requirement is to be enforced, it would be as well that the particular acts relied on as grounds of opposition should be specified in precise and definite terms. That they should be regarded as embodied in such vague and general charges as those made in this case can be of no practical advantage to anybody. No objection has, however, been taken in this case to the manner in which the so-called grounds of opposition have been set forth.

SHAW J.—

I agree. I think that the facts elicited at the examination of the insolvent were such as to justify the District Judge's refusing to grant a certificate of conformity.

I also agree that although section 124 of Ordinance No. 7 of 1853 does not specifically require particulars to be given in the notice of

1914. opposition of the precise act or defaults of the insolvent on which
SEAW J. the opposition is based, nevertheless it is only fair to the insolvent
that such particulars should be given in the notice, so that he should
Ali Marikar know exactly what charges he has to meet. I understand that
v. Arunachalam Chetty this has been the common practice, and think it should be adhered
to in all cases in the future.

Appeal dismissed.

