

Appln.(IP)No. 110 of 2016
in
I.P. No. 25 of 2014

Dr.G.JAYACHANDRAN, J.
&
C.V.KARTHIKEYAN, J.

This application had been filed by the Official Assignee seeking a Judgment and Decree against the second respondent, B.Vanthana, Veg Transport, Koyambedu Market, Chennai, to pay a sum of Rs.25,00,000/- with interest at 18% p.a., from 01.03.2013 till date of realisation with cost of the recovery proceedings.

2. The Official Assignee had stated that the second respondent had received a sum of Rs. 25,00,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 21.04.2014. It was also stated that this amount was reflected in the accounts. There has been no subsequent transaction to prove discharge.

3. Notice was directed to the second respondent in this application. Notice had been returned as unserved. Hence, substitute of service by way of paper publication was permitted on 25.01.2018. Thereafter Substitute of Service by way of paper publication effected on 31.01.2018. On 14.02.2018, there was no representation on behalf of the second respondent and therefore, the second respondent was set ex-parte on 14.02.2018. Thereafter, the applicant was directed to take evidence.

4. Accordingly, A.S.Velumani, Sub Assistant Registrar attached to the office of the Official Assignee, High Court, Madras, filed proof affidavit and was examined as PW-1. He filed Exs. A-1 to A-5. Ex.A-1 is the true copy of the relevant pages of the report dated 15.02.2014, given by Padmanabhan Ramani

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and Ramanujam; Ex.A-2 is the true copy of the relevant page of the report as on 31.03.2014 given by Annamalai Associates; Ex.A-3 is the true copy of the demand copies dated 17.08.2015 along with the photocopy of the postal returned cover; Ex.A-4 is the true copy of the relevant entries in schedule of affairs (Srl.No. 16); and Ex.A-5 is the true copy of the statement of accounts for the account in No. 6072364585, maintained by the first respondent with Indian Bank, Ethiraj Salai Branch. Thereafter, the first respondent namely, the insolvent, Arjunlal Sunderdas also appeared before the Court and filed his proof affidavit and was examined as RW-1. He also confirmed that the second respondent had borrowed a sum of Rs. 25,00,000/- which amount was paid through RTGS/Cheque. He affirmed that the second respondent had not paid any amount towards discharge.

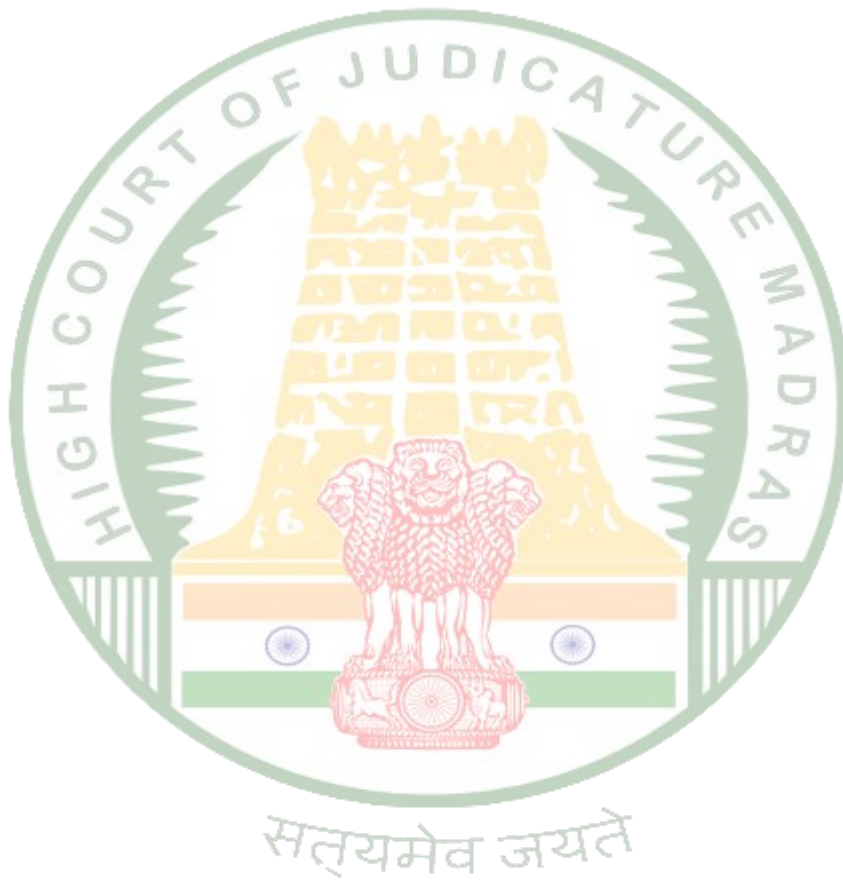
5. In view of the above evidence, this Application is allowed and the decree is passed accordingly against the second respondent as prayed for.

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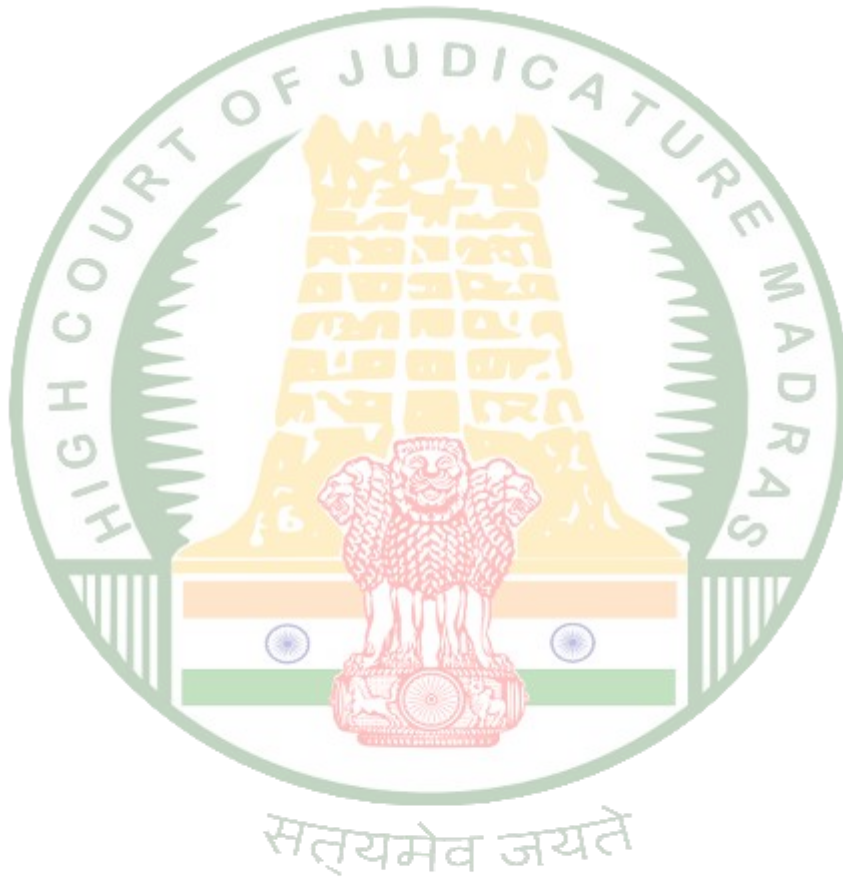
(Dr.G.J.J.) (C.V.K.J.)
 26.04.2019

Note: Issue order copy on 29.04.2019

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