

Appln.(IP)No. 202 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, Madras Asset Recovery Co P Ltd., having office at No. 13, Deivasaigamani Street, Off. T.T.K.Road, Royapettah, Chennai – 600 014, to pay a sum of Rs.29,50,000/- with interest at 18% p.a., from 21.04.2014 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. 29,50,000/- 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. The Official Assignee had issued notice dated 19.01.2018 calling upon the second respondent to pay the amount.

3. Notice was directed to the second respondent in this application. Notice had been served. There is no representation on behalf of the second respondent and therefore, the second respondent was set ex-parte on 25.01.2018. 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 Auditor's Report showing sundry debtors as on

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31.03.2014, given by Annamalai Associates, Chartered Accountants; Ex.A-2 is the true copy of the relevant pages of the Auditor's Report showing sundry debtors as on 31.03.2014, given by Annamalai Associates, Chartered Accountants; Ex.A-3 is the true copy of the demand notice dated 17.08.2015 addressed to the second respondent company by the office of the Official Assignee, High Court, Madras along with the photocopy of the returned postal cover; Ex.A-4 is the true copy of the relevant entries in the Schedule of Affairs; and Ex.A-5 is the true copy of the Statement of Accounts for the period from 01.01.2011 to 31.12.2011 for the account in No. 422156084 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. 29,50,000/- on 21.04.2014, 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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