

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

FRIDAY, THE 14TH DAY OF DECEMBER 2018

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

REVIEW APPLICATION NO.2 OF 2018

IN

APPLN. No.156 of 2017

&

APPLN.NOS.62,63, 64 AND 65 OF 2018

in

I.P. No.25 of 2014

In the matter of the Presidency
Towns Insolvency Act, III of 1909
and In the matter of
Arjunlal Sunderdas

...Debtor

I.P.NO.25 OF 2014

Smt.Chitra Desai
residing at 3A-302, Oakland Park,
Yamuna Nagar, Lokhandwala Complex,
Andheri (West), Mumbai.

... Petitioning Creditor

-Versus-

Mr.S.Arjunlal Sunderdas
23, Anderson Road, Nungambakkam,
Chennai-600 006.

... Respondent / Debtor

REVIEW APPLN.NO.2 OF 2018

&

APPLN. No.156 of 2017

Dr.M.Arumugam,
S/o.A.Murukiah Pillai,
No.7, Khader Nawaz Khan Road,
Nungambakkam,
Chennai 600 006.

...Review Applicant/Applicant

-Versus-

1.The Official Assignee,
High Court, Chennai - 104.

... 1st Respondent/1st Respondent

2.Smt.Chitra Desai
residing at 3A-302, Oakland Park,
Yamuna Nagar, Lokhandwala Complex,
Andheri (West), Mumbai.

... 2nd Respondent/2nd Respondent/
Petitioning Creditor

Review Application No.2 of 2018 praying that this Hon'ble Court be pleased to review the common order dated 27.07.2018 in Appln.No.156 of 2017 & Appln.Nos.62, 63, 64 & 65 of 2018, Appln.Nos.33,34, 25 of 2018 in IP.No.25 of 2014 and thereby exempt the schedule property from the administration of the 1st respondent.

APPLN. Nos.62 TO 65 of 2018

The Official Assignee,
High Court, Madras.

... Applicant

-Versus-

- 1.International Sea Foods Private Ltd.,
Pantheon Apartments,
No.17, Pantheon Road, 1st Lane,
Chennai 600 008.
- 2.Arjunlal Sunderdas,
C/o.Dinesh D.Bajaj,
Flat No.8181, TVH Lumbini Square,
127A, Brick Klin Road,
Purasawakkam, Chennai 7. ... 2nd Respondent/Debtor
- 3.S.Manohar Lal @ S.M.Lal,
Flat No.D, Third Floor,
Advika Apartments,
Door No.11, and Old No.6, 6B and 7,
First Street, Subbarao Avenue,
Chennai 600 006. ... 3rd Respondent
- 4.Dr.M.Arumugam,
S/o.Murukiah Pillai,
7, Khadar Nawaz Khan Road,
Nungambakkam, Chennai 600 006. ... 4th Respondent

The above Review Application coming on this day before this Court for hearing in the presence of Mr.S.R.Raghunathan, advocate for the Applicant herein and Mr.K.V.Ananthakrushnan, advocate for the Official Assignee, the 1st Respondent herein and upon reading the Review Application filed herein and

The Court made the following order:-

This application has been filed by the Review Applicant to review the common order dated 27.07.2018 in Applications in A.No.156 of 2017 and A.Nos.62 to 65 of 2018 in I.P.No.25 of 2014 filed to exempt the schedule property from the administration of the first respondent.

2.Heard Mr.S.R.Raghunathan, learned counsel for the review applicant.

3.The learned counsel for the review applicant sought to impress upon this Court that paragraph Nos.149 (i) and 149 (ii) of the order passed by this Court in Applications in A.No.156 of 2017 and A.Nos.62 to 65 of 2018 in I.P.No.25 of 2014 dated 27.07.2018, are contra to each other. It was urged that if International Sea Foods Private Ltd., is declared as a shell company then, the right of the review applicant as a mortgagee with International Sea Foods Private Ltd., may be affected. This Court finds that such an apprehension is unwarranted. The observation of this Court in paragraph Nos.149 (i) and 149 (ii) of the order dated 27.07.2018 are independent of each other and they are not mutually destructive.

4.As far as Dr.M.Arumugam, the applicant in A.No.156 of 2017 is concerned, his right as a mortgagee, in respect of the property bearing No.23, Anderson Road, Nungambakkam, Chennai 600 006, is well protected under the order passed by this Court dated 27.07.2018. We have held that International Sea Foods Private Ltd., is a shell

company of the Insolvent and his brother, only vis-a-vis the Insolvent, who, on behalf of International Sea Foods Private Ltd., created the mortgage in favour of Dr.M.Arumugam.

5.In view of the above observation, this Court finds there is no necessity to review the earlier order passed by this Court in A.No.156 of 2017 and A.Nos.62 to 65 of 2018 in I.P.No.25 of 2014 dated 27.07.2018.

6.Review Applciation is dismissed. No costs.

WITNESS, THE HON'BLE SHRIMATI, VIJAYA KAMLESH TAHILRAMANI, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 14TH DAY OF DECEMBER 2018.

sd/-

ASSISTANT REGISTRAR

Original Side - I

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2018

MANAGER

INSOLVENCY OFFICE

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cns.21/12/2018

HIGH COURT, MADRAS

REVIEW APPLN.NO.2 OF 2018

IN

APPLN. No.156 of 2017

and

APPLN.NOS.62, 63,64,65/2018

IN

I.P.NO.25 of 2014

THE HON'BLE DR.JUSTICE

G.JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE

C.V.KARTHIKEYAN

ORDER DATED: 14.12.2018

FOR APPROVAL: 24.12.2018

APPROVED ON : 26.12.2018

COPY TO:-

THE OFFICIAL ASSIGNEE

HIGH COURT, MADRAS.

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Application filed herein and and this Court having observed that the International Sea Foods Private Ltd., is a shell company of the insolvent and his brother, only vis-a-vis the insolvent, who, on behalf of International Sea Foods Private Ltd., created the mortgage in favour of Dr.M.Arumugam and this Court finds there is no necessity to review the earlier order passed by this Court in A.No.156 of 2017 and A.Nos.62 to 65 of 2018 in IP.No.25 of 2014 dated 27.07.2018 and

IT IS ORDERED :-

1.That the Review Application No.2 of 2018 in Appln.No.156 of 2017 in IP.No.25 of 2014 be and is hereby dismissed.

2.That there shall be no costs.

WITNESS, THE HON'BLE SHRIMATI, VIJAYA KAMLESH TAHILRAMANI, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 14TH DAY OF DECEMBER 2018.

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