

RESERVED ON: 28.06.2019

DATED: 12.07.2019

Appln.(IP)No. 108 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, Mohammer Taher, 119, 4th Main Road, Gandhi Nagar, Adyar, Chennai – 600 020, to pay a sum of Rs.50,00,000/- 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. 50,00,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 01.03.2013. 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 calling upon the second respondent to pay the amount.

3. Notice was directed to the second respondent but he did not choose to participate in the judicial proceedings 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-6. Ex.A-1 is the certified copy of the relevant pages in the Auditor Ranga Ramanujam's Report dated 04.04.2013; Ex.A-2 is the certified copy of the relevant page in Auditor Annamalai Associates's Report; Ex.A-3 is the certified copy of the Notice sent by Official Assignee along with the acknowledgment card; Ex.A-4 is the certified copy of the enquiry notice sent by Official Assignee along with the acknowledgment card; Ex.A-5 is the certified copy of the relevant entries in the Schedule of Affairs (No.49) First List; and Ex.A-6 is the certified copy of the relevant bank entry. 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. 50,00,000/- on 01.03.2013. 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 a decree is passed accordingly against the second respondent as prayed for.

vsg

(Dr.G.J.J.,) (C.V.K.J.,)
1 2.07.2019

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

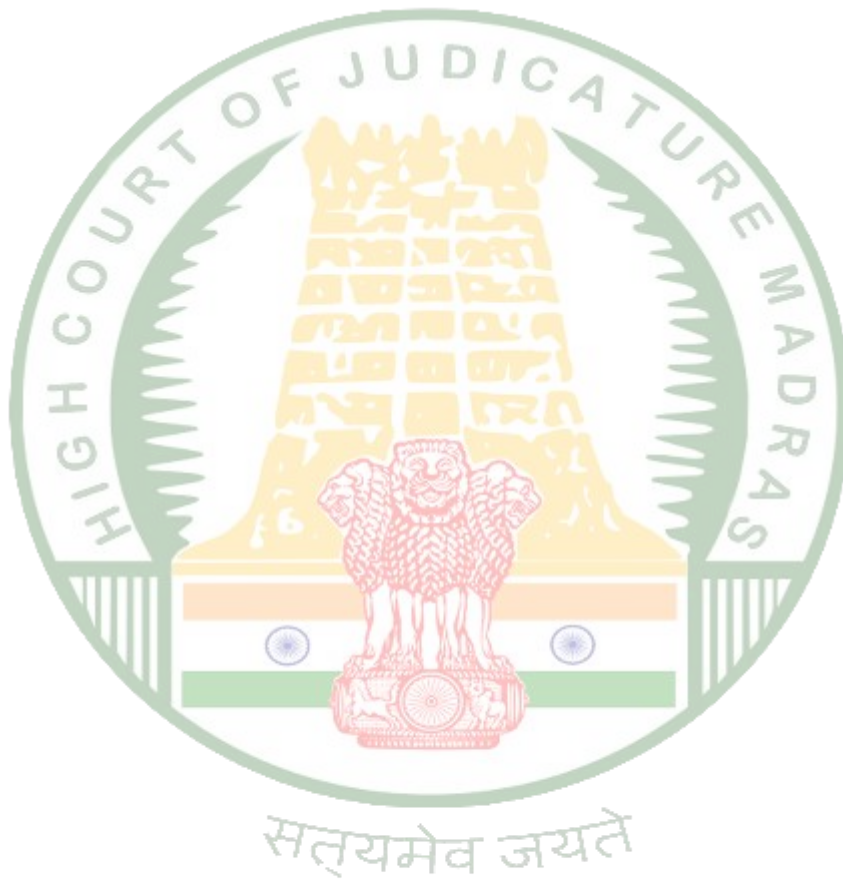
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Pre-Delivery Order made in
Appln.(IP)No. 108 of 2016
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