

**Appln.(IP)No. 169 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, J.Rajan, No.10/1 II Main Road, Kottur Gardens, Chennai – 600 085, to pay a sum of Rs.8,00,000/- 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. 8,00,000/- on 05.04.2008 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 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 was 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, Office of Official Assignee, Madras High Court filed proof affidavit and was examined as PW-1 and he reiterated the claim for Rs.8,00,000/- and to establish the claim filed Exs. A-1 – A-4. 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 Associate's Report; Ex.A-3 is

the Certified copy of the Notice sent by Official Assignee along with the acknowledgment card; and Ex.A-4 is the Certified copy of the relevant entries in the Schedule of Affairs (No.35) filed in Court. Thereafter, Mrs.P.Mangaiyarkkarasi, Assistant Section Officer attached to the Office of Official Assignee, Madras High Court filed proof affidavit and was examined as PW-2 and she reiterated the claim for Rs.8,00,000/- and to establish the claim filed under Exs. A-5 – A-7. Ex.A-5 is the true copy of the relevant pages from Auditor Ranga Ramanujam's Report; Ex.A-6 is the true copy of the bank statement from 16.02.2008 to 28.02.2008; and Ex.A7 is the true copy of the schedule of affairs dated 24.05.2014.

5. 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. 8,00,000/- on 05.04.2008, which amount was paid through RTGS/Cheque. He affirmed that the second respondent had not paid any amount towards discharge.

6. It is seen that the borrowal was on 05.4.2008 and after that date, within the period of limitation of three years, there has been no acknowledgment of debt by the second respondent. There has also been no demand made by the insolvent. The amount which was due was carried over in the books of accounts, but this would not save limitation.

7. In view of the above, this Application is dismissed.

vsg

(Dr.G.J.J.,) (C.V.K.J.,)  
15 .11.2019

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

**vsg**



**Pre-delivery Judgment made in**

**Appln.(IP)No. 169 of 2016**

**in**

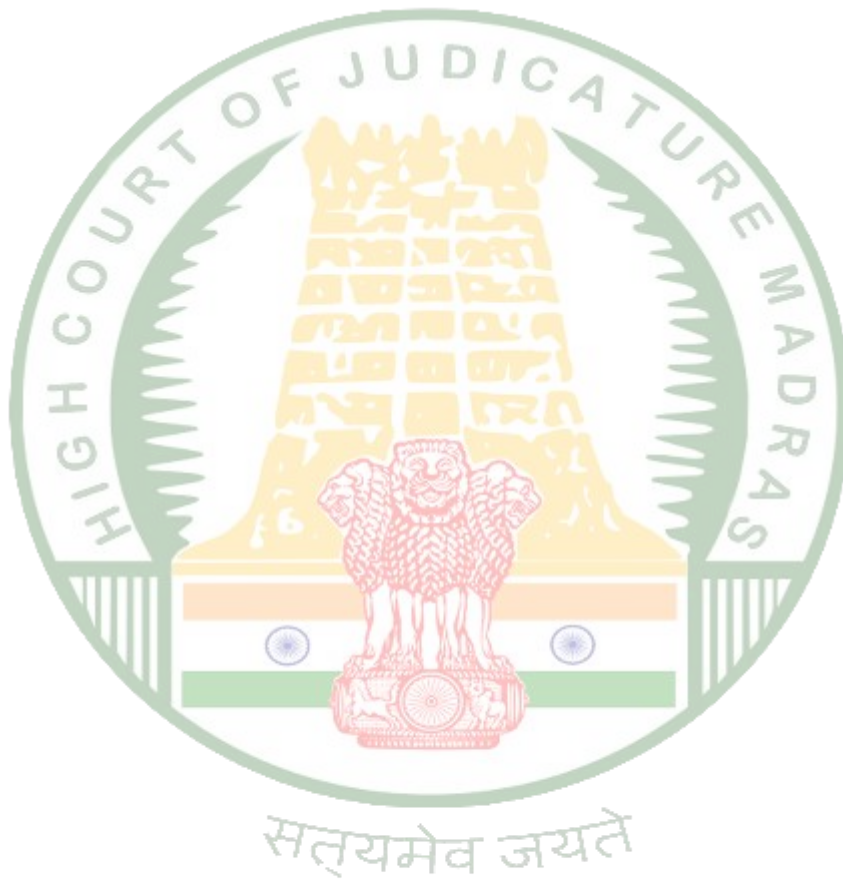
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