

Appln.(IP)No. 170 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, Sree Verantrha Desika, Darshana Sabha, B.V.Reddy Colony, Chittoor, A.P. 517 001, to pay a sum of Rs.1,00,000/- 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. 1,00,000/- on 19.04.2008 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

http://www.judis.ni PW-1 and he reiterated the claim for Rs.1,00,000/- and to establish the claim

filed Exs. A-1 – A-4. Ex.A-1 is the True copy of the relevant pages of the Auditor's Report dated 15.02.2016, given by Padmanabhan Ramani and Ramanujam, 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 19.08.2015 addressed to the 2nd respondent 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. 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.1,00,000/- and to establish the claim filed Exs. A-5 to A-7. Ex.A-5 is the true copy of the relevant pages from Auditor Ranga Ramanujam report; Ex.A-6 is the true copy of the schedule of affairs dated 24.05.2014.

5. The first respondent namely, the insolvent, Arjunlal Sunderdas reported to be died on 07.05.2018.

6. It is seen that the borrowal was on 19.4.2008 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

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vsg



Pre-delivery Judgment made in

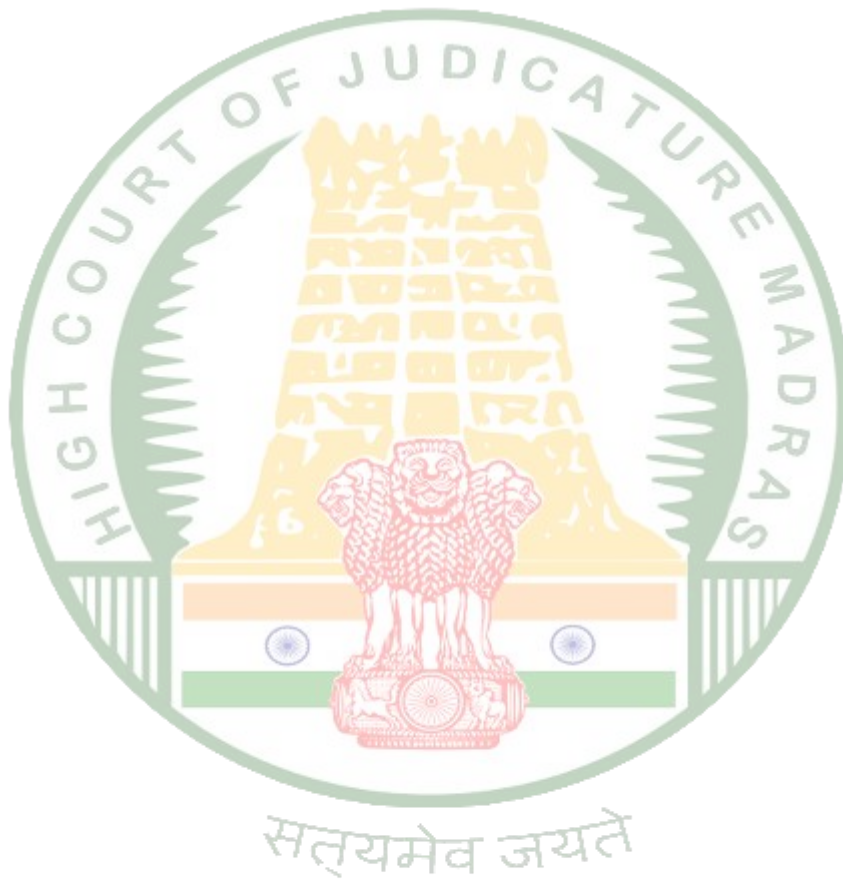
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