

Appln.(IP)No. 184 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, Jasgit Singh Dhaliwal Barnala, C/o. Barnaas Valliammal Road, Vepery, Chennai – 600 007, to pay a sum of Rs.95,00,000/- 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. 95,00,000/- 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 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.95,00,000/- and to establish the claim

filed Exs. A-1 – A-5. Ex.A-1 is the certified copy of the relevant pages of the Auditor's Report concerning the second respondent; Ex.A-2 is the certified true copy of the relevant pages of the Auditor's report concerning the second respondent; Ex.A-3 is the certified true copy of the Notice dated 07.09.2016 sent by the Office of the Official Assignee to the second respondent along with certified true copy of the postal return cover; and Ex.A-4 is the certified true copy of the schedule of the debtor's affairs dated 30.10.2015 filed by the Insolvent; and Ex.A-5 is the certified true copy of the statement of account dated 01.08.2015 for the period to 01.07.2010 to 31.12.2010 in respect of the account in No. 422156084, maintained by the first respondent with Indian Bank, Ethiraj Salai Branch. 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 and to establish the claim filed Exs. A-6 to A-8. Ex.A-6 is the true copy of the relevant pages from Auditor Ranga Ramanujam statement; Ex.A-7 is the true copy of the bank statement from 01.07.2010 to 31.12.2010; and Ex.A8 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. 25,00,000/- on 09.10.2010, Rs.25,00,000/- on 08.10.2010, Rs.20,00,000/- on 3/11/2010 and Rs.25,00,000/- on 9.11.2010 which amounts were paid through RTGS/Cheque. He affirmed that the second respondent had not paid any amount towards discharge.

6. It is seen that the amounts were due and payable on the date of filing of the Insolvency Petition and had also been shown in the schedule of Affairs.

7. 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.,)
15.11.2019



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

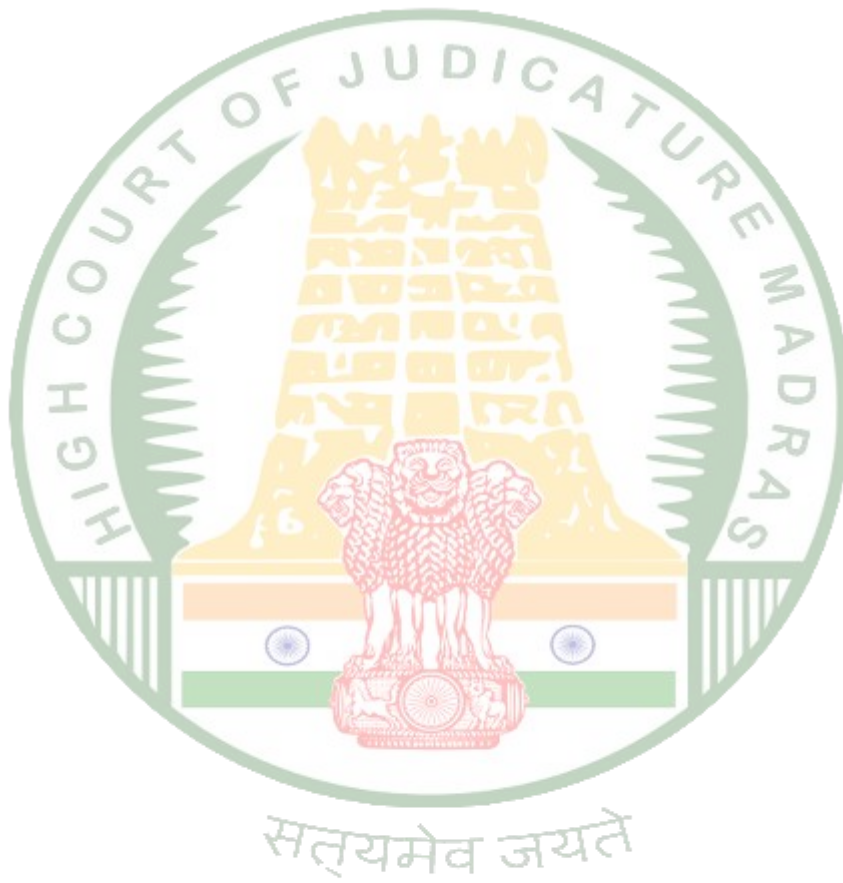
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Pre-delivery Judgment made in
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