

RESERVED ON: 28.06.2019

DATED: 12 .07.2019

Appln.(IP)No. 196 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, Sunglow Granites and Exports, No.7/2, Sripuram, 2nd Street, Royapet, Chennai – 600 014, to pay a sum of Rs.25,00,000/- 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.25,00,000/- 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 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-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 16.03.2016 sent by the office of the Official Assignee to the second respondent along with certified true copy of the Acknowledged Card; Ex.A-4 is the certified true copy of the schedule of the debtor's affairs dated 30.10.2015 filed by the Insolvent; Ex.A-5 is the certified true copy of the statement of account dated 01.08.2015 for the period to 01.01.2011 to 31.12.2011 in respect of the account in No. 422156084, maintained by the first respondent with Indian Bank, Ethiraj Salai Branch. 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. 25,00,000/- on 21.04.2014. 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.,)
12.07.2019

C.V.KARTHIKEYAN, J.

vsg



Pre-Delivery Order made in

Appln.(IP)No. 196 of 2016

in

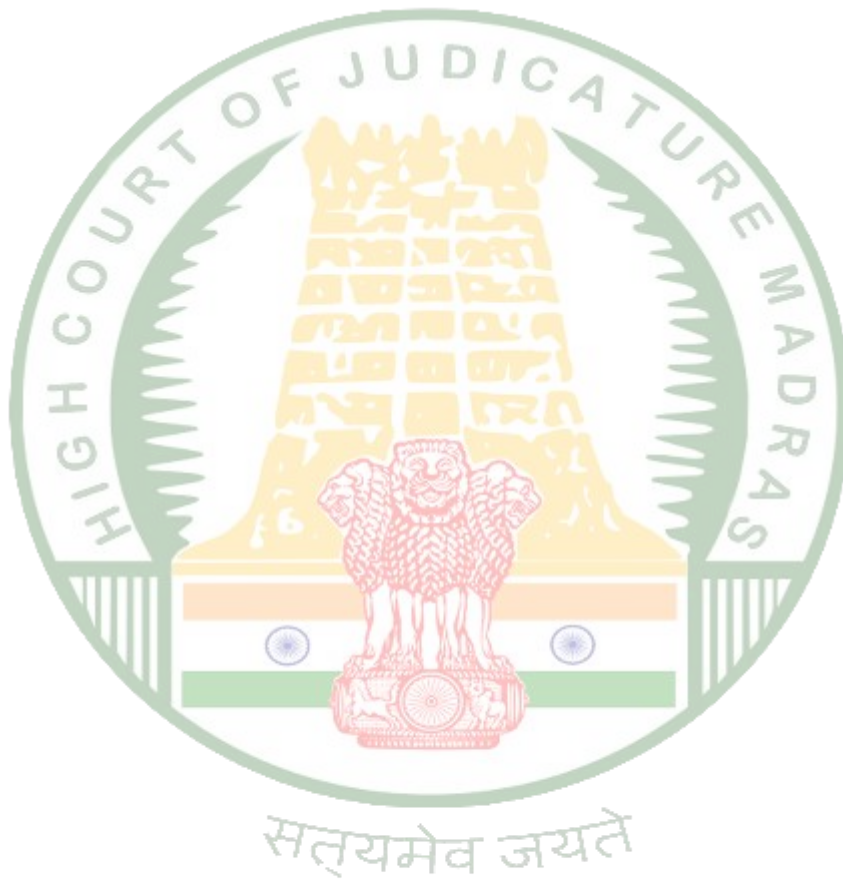
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