

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

FRIDAY, THE 26TH DAY OF APRIL 2019

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

APPLN.NO.202 OF 2016

IN

I.P. No.25 of 2014

In the matter of the Presidency
Towns Insolvency Act, III of 1909
and In the matter of
Arjunlal Sunderdas

...Debtor

I.P.NO.25 OF 2014

Smt.Chitra Desai
Residing at 3A-302, Oakland Park,
Yamuna Nagar, Lokhandwala Complex,
Andheri (West), Mumbai.

... Petitioning Creditor

-VS-

Mr.Arjunlal Sunderdas
23, Anderson Road, Nungambakkam,
Chennai-600 006.

... Respondent / Debtor

APPLN.NO.202 OF 2016

The Official Assignee,
High Court, Madras

... Applicant

-VS-

1.S.Arjunlal Sunderdas
23, Anderson Road, Nungambakkam,
Chennai-600 006.

... 1st Respondent /
Insolvent

2.Madras Asset Recovery Co.P.Ltd.,
No.13, Deivasigamani Street,
Off.T.T.K.Road,
Royapettah,
Chennai-600 014.

... 2nd Respondent/
3rd Party

Application praying that this Hon'ble Court be pleased to direct the 2nd respondent to pay a sum of Rs.29,50,000/- with interest at 18% p.a. From 21.04.2014 till date of realization with cost of the recovery proceedings.

This above application coming on this day before this court for hearing in the presence of Mr.K.V.Ananthakrushnan, advocate for the Official Assignee of this Court, the applicant herein; the 2nd respondent herein not appearing in person or by advocate and the 2nd respondent having been set ex-parte on 25.01.2018; and upon reading the Judges Summon and Report of the Official Assignee filed herein and upon perusing the evidence adduced herein and the exhibits marked thereon; and this Court having observed that the Official Assignee had stated that the second respondent had received a sum of Rs.29,50,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 21.04.2014 and it was also stated that this amount was reflected in the accounts and there has been no subsequent transaction to prove discharge and

IT IS ORDERED :-

<https://hcservices.ecourts.gov.in/hcservices/> That the 2nd respondent be and is hereby directed to pay a sum of Rs.29,50,000/- with interest at 18% p.a. From

21.04.2014 till date of realization with cost of the recovery proceedings.

WITNESS, THE HON'BLE SHRIMATI, VIJAYA KAMLESH
TAHILRAMANI, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID
THIS THE 26TH DAY OF APRIL 2019.

SD/-
ASSISTANT REGISTRAR(OS-I)
//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2019

MANAGER
INSOLVENCY OFFICE

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

cns-29.04.2019

HIGH COURT, MADRAS

APPLN. No.202 OF 2016

IN

I.P.NO.25 of 2014

THE HON'BLE DR.JUSTICE

G.JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE

C.V.KARTHIKEYAN

ORDER DATED: 26.04.2019

FOR APPROVAL: 29/04/2019

APPROVED ON : 29/04/2019

COPY TO:-

The Official Assignee,
High Court, Madras.

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... Respondent / Debtor

APPLN.NO.202 OF 2016

The Official Assignee,
High Court, Madras

... Applicant

-VS-

1.S.Arjunlal Sunderdas
23, Anderson Road, Nungambakkam,
Chennai-600 006.

... 1st Respondent /
Insolvent

2.Madras Asset Recovery Co.P.Ltd.,
No.12, Divasigamani Street,
Off.T.T.K.Road,
Royapettah,

Chennai 600 014.

... 2nd Respondent/
3rd Party

Application praying that this Hon'ble Court be pleased to direct the 2nd respondent to pay a sum of Rs.29,50,000/- with interest at 18% p.a. From 21.04.2014 till date of realization with cost of the recovery proceedings.

This above application coming on this day before this court for hearing in the presence of Mr.K.V.Ananthakrushnan, advocate for the Official Assignee of this Court, the applicant herein; the 2nd respondent herein not appearing in person or by advocate and the 2nd respondent having been set ex-parte on 25.01.2018; and upon reading the Judges Summon and Report of the Official Assignee filed herein and upon perusing the evidence adduced herein and the exhibits marked thereon; and

THE COURT MADE THE FOLLOWING ORDER :

This application had been filed by the Official Assignee seeking a Judgment and Decree against the second respondent, Madras Asset Recovery Co P Ltd., having office at No. 13, Deivasaigamani Street, Off. T.T.K.Road, Royapettah, Chennai - 600 014, to pay a sum of Rs.29,50,000/- 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. 29,50,000/- 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 dated 19.01.2018 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 is 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 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 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-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 17.08.2015 addressed to the second respondent

company 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; and Ex.A-5 is the true copy of the Statement of Accounts for the period from 01.01.2011 to 31.12.2011 for 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. 29,50,000/- on 21.04.2014, which amount was paid through RTGS/Cheque. 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 the decree is passed accordingly against the second respondent as prayed for.

WITNESS, THE HON'BLE SHRIMATI, VIJAYA KAMLESH TAHILRAMANI, CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 26TH DAY OF APRIL 2019.

SD/-

ASSISTANT REGISTRAR(OS-I)

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DATED THIS THE DAY OF 2019

MANAGER
INSOLVENCY OFFICE

cns-29.04.2019

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