

RESERVED ON: 06.12.2019

DATED: 17.12.2019

Appln.(IP)No. 206 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, C.Vivek, G.Block, 7th Street, Ground Floor, C-42, Anna Nagar, Chennai – 600 040, to pay a sum of Rs.5,00,000/- 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. 5,00,000/- 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 books of 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. P-1 to P-4. Ex.P-1 is the certified true copy of the relevant pages of the Auditor's report concerning the second respondent; Ex.P-2 is the certified true copy of the relevant pages of the Auditor's report concerning the second respondent; Ex.P-3 is the certified true copy of the Notice dated 03.05.2016 sent by the office of the Official Assignee to the second respondent along with certified true copy of the acknowledged Card; and Ex.P-4 is the certified true copy of the schedule of the debtor's affairs dated 30.10.2015 filed by the Insolvent.

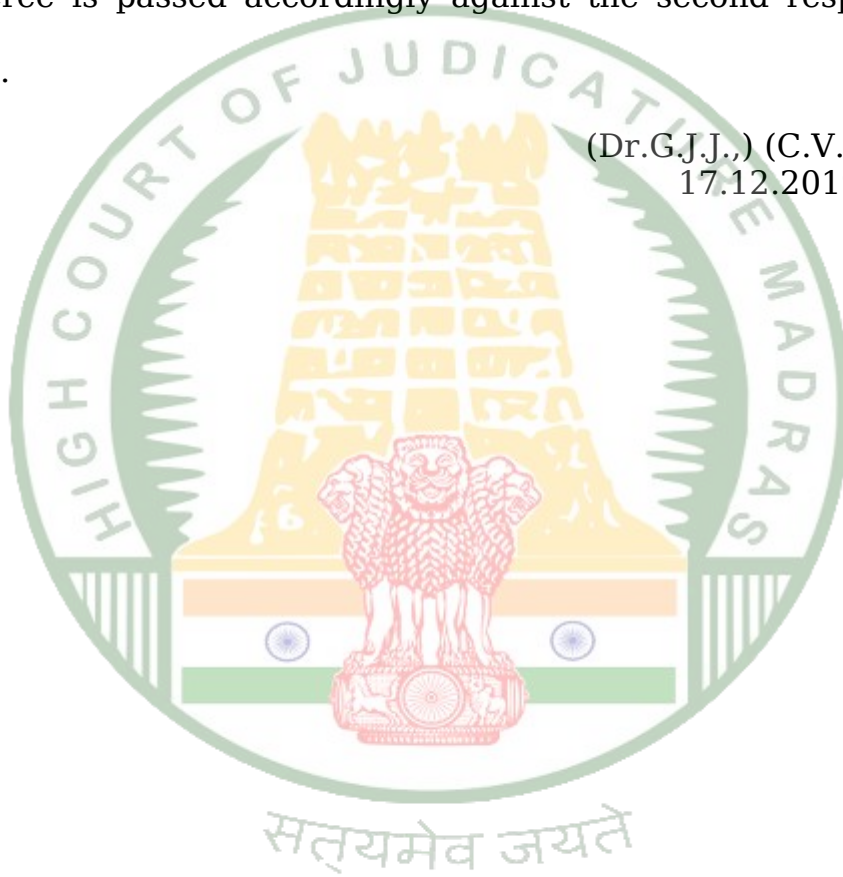
5. Thereafter, Mrs.P.Mangaiyarkkarasi, Assistant Section Officer attached to the Office of Official Assignee, Madras High Court filed proof affidavit and was examined as PW-2 and she reiterated the claim for Rs.5,00,000/- and to establish the claim filed under Exs. P-5 – P-9. Ex.P-5 is the true copy of the relevant pages from Auditor Ranga Ramanujam's Report dated 19.03.2015; Ex.P-6 is the true copy of the schedule of affairs; Ex.P-7 is the true copy of the bank entries from the statement of account of Arjunlal Sunderdas; Ex.P-8 is the true copy of the counter statement filed by the second respondent before the Official

Assignee in I.P.No. 25 of 014; and Ex.P-9 is the true copy of the promissory note executed on 21.04.2014.

6. 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.,)
17.12.2019



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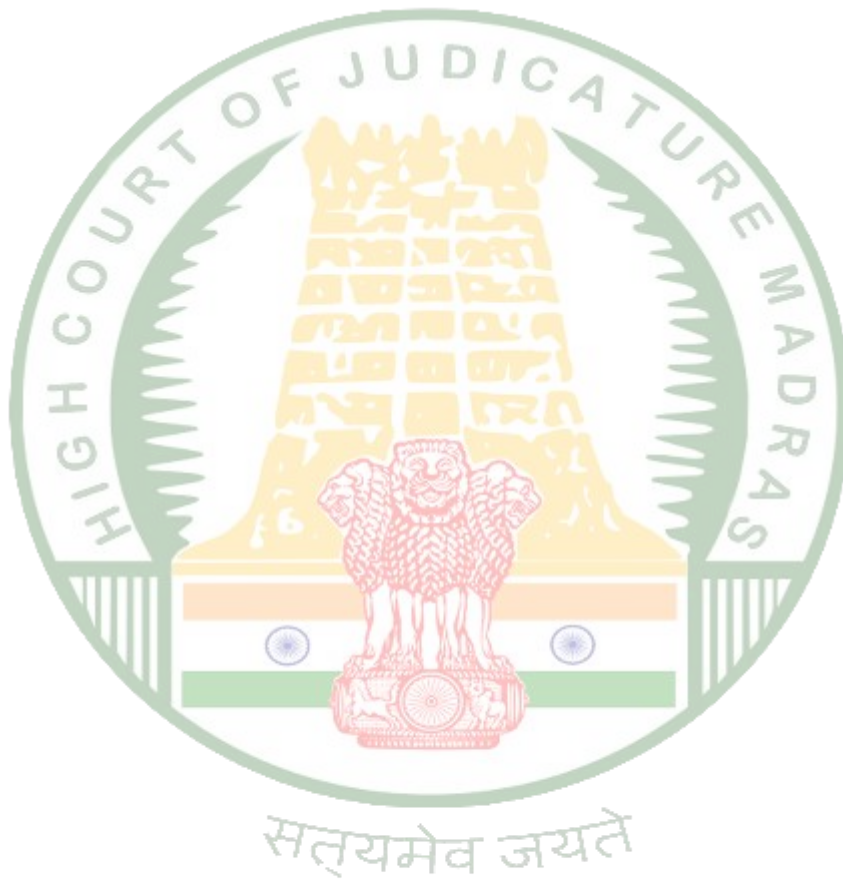
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Pre-Delivery Order made in
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