

RESERVED ON: 06.12.2019

DATED: 17.12.2019

Appln.(IP)No. 225 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, G.Suresh Babu, Archana Flats 10, Sarangapani Street, T.Nagar, Chennai – 600 017, to pay a sum of Rs.50,00,000/- with interest at 18% p.a., from 27.01.2014 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. 50,00,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 27.01.2014. 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 true copy of the relevant pages of the Auditor's Report dated 15.02.2016, given by Padmanabhan Ramani & Ramanujam, Chartered Accountants; Ex.P-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.P-3 is the True Copy of the demand notice dated 15.03.2016 addressed to the second respondent by the Office of the Official Assignee, High Court, Madras along with the photocopy of the returned postal cover; and Ex.P-4 is the true copy of the relevant entries in the Schedule of Affairs. Thereafter, the first respondent namely, the insolvent, Arjunlal Sunderdas also appeared before the Court and filed his proof affidavit. He also confirmed that the second respondent had borrowed a sum of Rs. 50,00,000/- through RTGS which was due on 21.04.2014. He affirmed that the second respondent had not paid any amount towards discharge.

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.50,00,000/- and to establish the claim filed under Exs. P-5 and P-6. Ex.P-5 is the certified copy of the relevant entries of Auditor Ranga Ramanujam's Report; and Ex.P-6 is the certified true copy of the statement of accounts for the period 01.01.2012 to 31.12.2012 in respect of the account in No. 422156084 maintained by Arjunlal Sunderdas and for the period 01.01.2013 to 01.07.2013 in respect of the account No. 6072364585 maintained by Arjunlal Sunderdas, both with Indian Bank, Ethiraj Salai Branch.

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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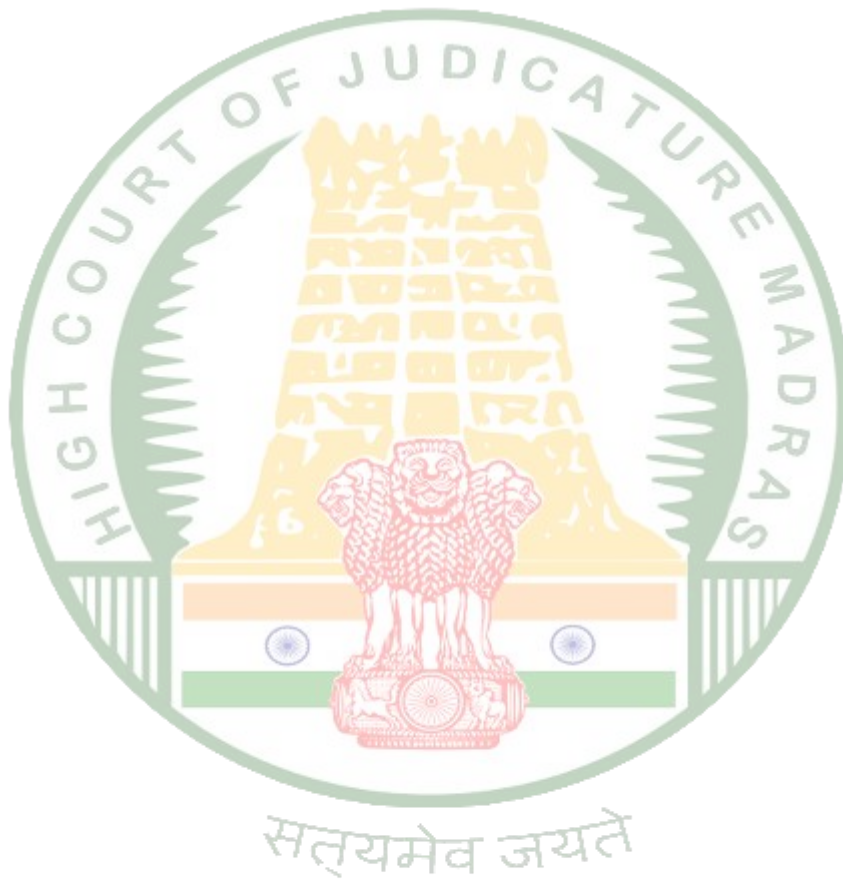
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