

RESERVED ON: 28.06.2019

DATED: 12.07.2019

Appln.(IP)No. 239 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, Sixth Sense, Barnas International, Valliammal Road, Vepery, Chennai - 600007, to pay a sum of Rs.30,00,000/- 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.30,00,000/- 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 returned as unserved. Hence, substitute of service by way of paper publication was effected on 31.01.2018 pursuant to the order passed by this Court on 25.01.2018 and the second respondent was set ex-parte on 14.02.2018. 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 relevant pages in the Auditor Ranga Ramanujam's Report dated 01.04.2013 to 31.03.2014; Ex.A-2 is the true copy of the relevant page in Auditor Annamalai Associates's Report; Ex.A-3 is the true copy of the notice dated 16.03.2016 sent by the Official Assignee along with copy of acknowledgment; Ex.A-4 is the true copy of the relevant entries in schedule of affairs (No.77) filed in the Court dated 24.05.2014. 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. 30,00,000/- 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

Dr.G.JAYACHANDRAN, J.
&

C.V.KARTHIKEYAN, J.

vsg



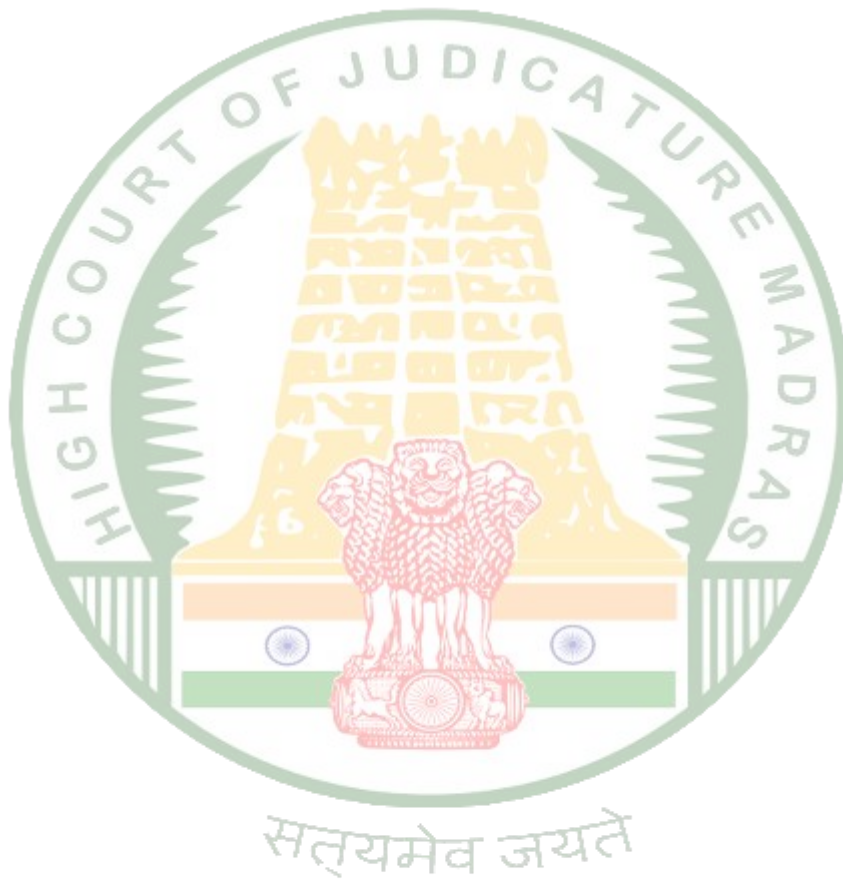
Pre-Delivery Order made in
Appln.(IP)No. 239 of 2016
in
I.P. No. 25 of 2014

WEB COPY

12.07.2019



WEB COPY



WEB COPY