



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(IN INSOLVENCY)

TUESDAY, THE 17TH DAY OF DECEMBER 2019
THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

APPLN.240 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.240 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.S.A.Bhimaraja,
Flat No.A-1, Whispering Heights,
132, St.Mary's Road,
Alwarpet, Chennai 600 018. ... 2nd Respondent/3rd Party

Application praying that this Hon'ble Court be pleased to direct the 2nd respondent to pay a sum of Rs.3,50,000/- with interest at 18% p.a. from 21.04.2014 till date of realization with cost of the recovery proceedings.

The above application having been heard on 06.12.2019 in the presence of Mr.K.V.Ananthakrushnan, Advocate assisted by Ms.A.Janani, Advocate for the Official Assignee of this Court, the applicant herein and upon reading the Judges Summon and report of the Official Assignee filed herein and having stood over for consideration till this day and coming on this day before this Court for orders in the presence of the aforementioned advocates,

The Court made the following order:-

This application had been filed by the Official Assignee seeking a Judgment and Decree against the second respondent, S.A.Bhimaraja, Flat No.A-1, Whispering Heights, 132, St. Mary's Road, Alwarpet, Chennai – 600 018, to pay a sum of Rs.3,50,000/- 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. 3,50,000/- 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 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 Series (3 Nos.) are the true copies of the relevant pages in auditor Ranga Ramanujam's report dated 01.04.2013 to 31.03.2014; Ex.P2 is the true copy of relevant pages of auditor Annamalai Associates' report; Ex.P3 is the true copy of demand notice dated 15.03.2016 sent by Official Assignee with acknowledgment card; and Ex.P4 are the true copies of Relevant entries dated 24.05.2014 in schedule of affairs (No.76). 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. 3,50,000/- 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.3,50,000/- and to establish the claim filed under Exs. P-5 – P-7. 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 bank entries from the statement of account of Arjunlal Sunderdas; and Ex.P7 is the true copy of the reply dated 01.11.2017 by S.A.Bhimaraja to the Official Assignee.

6. In view of the above evidence, this Application is allowed and a decree is passed accordingly against the second respondent as prayed for.

WITNESS, THE HON'BLE THIRU AMRESHWAR PRATAP SAHI,
CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE
17TH DAY OF DECEMBER 2019.

SD./-
ASSISTANT REGISTRAR
Original Side – I

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2021.

MANAGER
INSOLVENCY OFFICE

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HIGH COURT, MADRAS

APPLN. No.240 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: 17.12.2019

FOR APPROVAL: 10/01/2020

APPROVED ON : 13/01/2020

COPY TO:-

The Official Assignee,
High Court, Madras.



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it is ordered as follows:-

<https://hcservices.ecourts.gov.in/hcservices/> That, the Second respondent be and is hereby directed to pay a sum of Rs.3,50,000/-(Rupees Three lakhs fifty thousand only) with interest at 18%



p.a. from 21.04.2014 till date of realization with cost of the recovery proceedings.

WITNESS, THE HON'BLE THIRU AMRESHWAR PRATAP SAHI,
CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE
17TH DAY OF DECEMBER 2019.

SD./-

ASSISTANT REGISTRAR

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DATED THIS THE DAY OF 2021.

MANAGER

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06.08.2021

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I.P.NO.25 of 2014

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

AND

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

DECREE DATED: 17.12.2019

FOR APPROVAL: 09/08/2021

APPROVED ON : 09/08/2021

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