

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.175 OF 2017

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.175 OF 2017

The Official Assignee,
High Court, Madras

... Applicant

-VS-

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

... 1st Respondent /
Insolvent

2.Dynasource Webware P Ltd.,
Sree Hari Building 4,
Top Avenue, Kangayam Road,
Thruppur 641 604.

... 2nd Respondent

Application praying that this Hon'ble Court be pleased to direct the 2nd respondent to pay a sum of Rs.35,00,000/- with interest at 18% p.a. From 30.04.2013 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 herein; 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 the second respondent had received a sum of Rs.35,00,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 13.03.2013 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.35,00,000/- with interest at 18% p.a. From

30.04.2013 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
Original Side - I

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2019

COURT OFFICER(OS)

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cns-29.04.2019

HIGH COURT, MADRAS

APPLN. No.175 OF 2017
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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-VS-

1.S.Arjunlal Sunderdas
23, Anderson Road, Nungambakkam,
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... 1st Respondent /
Insolvent

2.Dynasource Webware P Ltd.,
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Thruppur 641 604.

... 2nd Respondent

Application praying that this Hon'ble Court be

<https://hcservices.ecourts.gov.in/hcservices/> pleased to direct the 2nd respondent to pay a sum of

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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 herein; 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, Dynasource Webware P Ltd., having office at Sree Hari Building 4, Top Avenue, Kangayam Road, Thruppur - 641 604, to pay a sum of Rs.35,00,000/- with interest at 18% p.a., from 30.04.2013 till date of realisation with cost of the recovery proceedings.

2. The Official Assignee had stated the second respondent had received a sum of Rs. 35,00,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 13.03.2013. 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 13.04.2017 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 with an endorsement that there is no such company in the given address. Hence, substitute of service by way of paper publication was permitted on 14.02.2018. Thereafter Substitute of Service by way of paper publication effected on 22.02.2018. On 14.03.2018, there was no representation for the respondent and therefore, the second respondent was set ex-parte. Thereafter, the applicant was directed to take evidence.

4. Accordingly, R.Parameswari (P.W.1) filed proof affidavit on behalf of the Official Assignee reiterating the averments made by the Official Assignee in support of the application and filed Exs. A-1 to A-4. Ex.A-1 was the true copy of the relevant pages in the Auditor Ranga Ramanujam Report dated 16.02.2013; Ex.A-2 was the true copy of the Notice dated 13.04.2017 sent by the Official Assignee to Dynasource Webware Private Limited; Ex.A-3 was the true copy of the Letter dated 07.04.2017 issued by Insolvent's counsel to the Official Assignee with additional list of Debtors; Ex.A-4 was the true copy of the statement of account bearing

account No. 422156084 in respect of the Insolvent with Indian Bank.

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.

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