

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.90 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.90 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.Venku Reddy,
C/o.C.Gopal Reddy,
III Floor, New No.105, Old No.150,
Habibullah Road,
Chennai-600 017..

... 2nd Respondent

Application praying that this Hon'ble Court be pleased to direct the 2nd respondent to pay a sum of Rs.65,00,000/- with interest at 18% p.a. from 23.12.2013 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 on 06.07.2018; 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.65,00,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 23.12.2013 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.65,00,000/- with interest at 18% p.a. From

23.12.2013 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

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DATED THIS THE DAY OF 2019

COURT OFFICER(OS)

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HIGH COURT, MADRAS

APPLN. No.90 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

सत्यमेव जयते

FOR APPROVAL: 29/04/2019

APPROVED ON : 29/04/2019

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COPY TO:-

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High Court, Madras.

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... 2nd Respondent

Application praying that this Hon'ble Court be
pleased to direct the 2nd respondent to pay a sum of

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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 on 06.07.2018; 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, Venku Reddy, C/O. C.Gopal Reddy, III Floor, New No. 105, Old No. 150, Habibullah Road, Chennai - 600 017, to pay a sum of Rs.65,00,000/- with interest at 18% p.a., from 23.12.2013 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. 65,00,000/- from the first respondent/insolvent Arjunlal Sunderdas, which was shown as due and outstanding as on 23.12.2013. 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 calling upon the second respondent to pay the amount.

3. Notice was directed to the second respondent in this application. Notice had been served. There is no representation on behalf of the second respondent and therefore, the second respondent was set ex-parte on 06.07.2018. 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-5. Ex.A-1 is the true copy of the relevant pages of the Auditor Ranga Ramanujam Report dated 01.04.2011 to 31.03.2013; Ex.A-2 is the true copy of relevant page in Auditor Annamalai Associate's Report; Ex.A-3 is the True copy of relevant entries in Schedule of Affairs (No.90) dated 24.05.2014; Ex.A-4 is the true copy of Bank Statement; Ex.A-5 is the true copy of reply letter from City Union Bank dated 10.05.2018. 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. 65,00,000/- on 23.12.2013, which amount was paid through RTGS/Cheque. 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 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.

sd/-

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