

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

THURSDAY, THE 27TH DAY OF FEBRUARY 2020

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND

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

APPLN. No.166 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.166 of 2016:-

The Official Assignee,
High Court, Chennai.

... Applicant

-Versus-

1.S.Arjunlal Sunderdas,
No.23, Anderson Road,
Nungambakkam,
Chennai-600 006.

... 1st Respondent/Insolvent

2. Barnas International P Ltd.,
Valliammal Road,
Vepery, Chennai 600 006.

... 2nd Respondent/3rd Party/Debtor

Application praying that this Hon'ble Court be pleased to direct the 2nd respondent to pay a sum of Rs.30,00,000/- with interest at 18% p.a. from 21.04.2014 till date of realization with cost of the recovery proceedings.

The application having been heard on 21.02.2020 for orders in the presence of Ms.A.Janani, Advocate assisted by Mr.K.V.Ananthakrushnan, advocate for the Official Assignee of this Court, the Applicant herein; and upon reading the Judges Summon and Report of the Official Assignee herein; and this Court 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, Barnas International P Ltd., Valliammal Road, Vepery, Chennai – 600 006, 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 served on 24.10.2016. The second respondent filed counter affidavit on 05.01.2018.

4. In the reply affidavit, it had been claimed that the insolvent had to pay a sum of Rs.38,00,000/- which had been transferred vide RTGS from Account No. 12842320000067, HDFC Bank Ltd., Egmore Branch, by Transaction No. IDIB00C032 to the account of the insolvent on 19.11.2012.

5. The matter was posted for recording evidence before the Master.

6. Accordingly, R.Padma, Sub Assistant Registrar attached to the

Office of the Official Assignee, Madras High Court filed proof affidavit and was examined as PW-1. She reiterated the claim for Rs.30,00,000/- and to establish the claim filed Exs. A-1 – A-7. Ex.A-1 is the true copy of the relevant pages from the report of the Auditor Ranga Ramanujam dated 05.08.2015, concerning the second respondent herein; Ex.A-2 is the true copy of the relevant page from the report of the Auditor “Annamalai Associates”, concerning the second respondent herein; Ex.A-3 is the true copy of the demand notice dated 12.08.2015 sent by the Official Assignee to the second respondent herein along with the true copy of the acknowledgment; Ex.A-4 is the true copy of the reply to the notice addressed to the second respondent, dated 04.01.2016; Ex.A-5 is the true copy of the schedule of affairs dated 24.05.2014 concerning the respondent herein; Ex.A-6 is the true copy of the schedule of affairs dated 30.10.2015 concerning the respondent herein; Ex.A-7 is the true copy of the statement of account pertaining to the account No. 422156084, maintained by Arjunlal Sunderdas, with Indian Bank, Ethiraj Salai Branch, dated 01.08.2015, for the period 01.07.2010 to 31.12.2010.

7. The second respondent did not come forward to cross examine the witness. Holding that sufficient opportunity had been granted, the

8. Heard Mr. Ananthakrushnan-, learned counsel for the Official Assignee. The second respondent had not come forward to substantiate the statements made in the counter affidavit, or to cross examine the evidence of PW-1, which evidence stands uncontroverted.

9. 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 27th DAY OF FEBRUARY 2020.

sd/-

ASSISTANT REGISTRAR(OS-I)

//CERTIFIED TO BE TRUE COPY//
DATED THIS THE DAY OF 2020

WEB COPY
MANAGER
INSOLVENCY OFFICE

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28/02/2020

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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: 27.02.2020

FOR APPROVAL: 28/02/2020

APPROVED ON : 02/03/2020

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High Court, Madras.

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IT IS ORDERED AS FOLLOWS :-

That the 2nd respondent be and is hereby directed to pay a sum of Rs.30,00,000/- (Rupees Thirty Lakhs 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 27th DAY OF FEBRUARY 2020.

SD/-

ASSISTANT REGISTRAR(OS-I)

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