

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(IN INSOLVENCY)

FRIDAY, THE 24TH DAY OF JANUARY 2020

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

AND

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

APPLN.174 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. 174 OF 2016

The Official Assignee,
High Court, Madras

... Applicant

-VS-

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

...1st Respondent/Insolvent

2.N.S.R.Steels P.Ltd.,
No.20-A, East Velala Colony,
Rama Varmapuram,
Nagercoil 629001

... 2nd Respondent/Debtor

Application praying that this Hon'ble Court be
pleased to direct the 2nd respondent to pay a sum of
Rs.73,50,000/- with interest at 18% p.a. from 21.04.2014
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; and upon reading the Judges Summon and Report of the Official Assignee filed herein;

The Court made the following order:-

This application had been filed by the Official Assignee seeking a Judgment and Decree against the second respondent, N.S.R.Steels Pvt. Ltd., No.20-A, East Velalar Colony, Rma Varma Puram, Nagercoil, to pay a sum of Rs.73,50,000/- 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. 73,50,000/- 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 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 08.12.2017.

<https://hcservices.ecourts.gov.in/hcservices/> The Official Assignee/ no representation on behalf of the second respondent 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, Office of Official Assignee, Madras High Court filed proof affidavit and was examined as PW-1 and he reiterated the claim for Rs.73,50,000/- and to establish the claim filed Exs. A-1 - A-4. Ex.A-1 is the certified true copy of the relevant pages of the Auditor's Report concerning the second respondent; Ex.A-2 is the certified true copy of the relevant pages of the Auditor's report concerning the second respondent; Ex.A-3 is the certified true copy of the Notice dated 18.8.2015 sent by the Office of the Official Assignee to the second respondent along with certified true copy of the acknowledged Card; and Ex.A-4 is the certified true copy of the schedule of the debtor's affairs dated 30.10.2015 filed by the Insolvent. 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 and to establish the claim filed Exs. A-5 to A-8. Ex.A-5 is the true copy of the relevant pages from Auditor Ranga Ramanujam statement; Ex.A-6 is the true copy of the schedule of affairs dated 24.05.2014 (S.No.58); Ex.A7 is the true copy of the bank statement from 01.11.2008 to 30.11.2008 and Ex.A8 is the true copies of share certified issued by the second respondent dated 23.10.2013.

5. The first respondent namely, the insolvent, Arjunlal Sunderdas /RW-1 also appeared before the Court and filed his proof affidavit. He also confirmed that the second respondent had borrowed a sum of Rs.73,50,000/- on 21.04.2014 which amounts were paid through RTGS/Cheque. He affirmed that the second respondent had not paid any amount towards discharge.

6. It is seen that the amounts were due and payable on the date of filing of the Insolvency Petition and had also been shown in the schedule of Affairs.

7. 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
24TH DAY OF JANUARY 2020.

SD/-

ASSISTANT REGISTRAR(OS-I)

//CERTIFIED TO BE TRUE COPY//

DATED THIS THE DAY OF 2020

MANAGER
INSOLVENCY OFFICE

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

cns-03.02.2020

HIGH COURT, MADRAS

APPLN. No.174 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: 24.01.2020

FOR APPROVAL: 10/02/2020

APPROVED ON : 11/02/2020

COPY TO:-

The Official Assignee,
High Court, Madras.