



WEB COPY



Application (IP) No. 226 of 2024

IN

I.P.No. 25 of 2014

DR.G.JAYACHANDRAN, J.

and

C.V.KARTHIKEYAN, J.

This Application has been filed under Section 8 of the Presidency Town and Insolvency Act 1909 to set aside the order dated 29.09.2023 passed by the Official Assignee rejecting Claim No. 70 of 2016.

2. The applicant had filed the claim petition in I.P.No. 25 of 2014.

3. I.P.No. 25 of 2014 had been filed by a petitioning creditor seeking to adjudicate Arjunlal Sunderdas as an insolvent and to direct the Official Assignee to take control of the assets of the insolvent and disburse the amounts to the claimants. Arjunlal Sunderdas was adjudicated as insolvent by order dated 21.04.2014. Subsequently, the Official Assignee had taken control of all



assets and proceeding are pending before this Court.

4. In the affidavit filed in support of the application, it had been contended that the applicant had advanced a sum of Rs.10,00,000/- to Arjunlal Sunderdas, who had been subsequently adjudicated as insolvent. The applicant had filed Claim No. 70 of 2016 seeking an amount of Rs.14,95,000/- which included the principal amount of Rs.10,00,000/- and interest of Rs.4,95,000/-. He had produced the original promissory note before the Official Assignee in support of the claim, but however, the claim had been rejected by order dated 29.09.2023.

5. The applicant claimed that he had given the said amount to the insolvent, who collected it through a representative at Delhi. Further, details had not been given. The Official Assignee while rejecting the Claim Petition had stated that out of a sum of Rs.10,00,000/-, the applicant had received a sum of Rs.6,00,000/- from his father-in-law as gift and the remaining sum of Rs.4,00,000/- was his personal savings. It had been stated that the applicant had not filed his income tax return. He had only produced a ledger. This had



been rejected as a self serving document by the Official Assignee.

6. We have carefully considered the records.

7. There is no proof to show that consideration had actually passed from the applicant to the insolvent. Mere possession of a promissory note would not advance the case of the applicant. It is stated that a sum of Rs.6,00,000/- had been received by the applicant from his father-in-law and Rs.4,00,000/- were part of his personal savings. Those statements could be true but the issue is handing over of the amount of Rs.10,00,000/- to the insolvent for which there is no proof. It is contended that the amount was handed over at New Delhi to a representative of the insolvent, but the name of the person to whom it was handed over had not been mentioned. This creates a strong suspicion over the bona fide of the claim.

8. We are not inclined to grant the relief of sought in this Petition. We find no reason to set aside the order of the Official Assignee.

9. This Application stands dismissed.

(DR.G.J.J.,) & (C.V.K.J.,)



WEB COPY

vsg

.11.2024

DR.G.JAYACHANDRAN, J.

and

C.V.KARTHIKEYAN, J.

vsg

Pre-Delivery Order made in

Application (IP) No. 226 of 2024

IN

I.P.No. 25 of 2014



WEB COPY



.11.2024