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Application (IP) No. 232 of 2024

IN

I.P.No. 25 of 2014

DR.G.JAYACHANDRAN, J.

and

C.V.KARTHIKEYAN, J.

This Application has been filed seeking to set aside the order of the Official Assignee dated 05.10.2023 in Claim No. 271 of 2014.

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 proceedings are pending before this Court.



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4. In the affidavit filed in support of the application, it had been contended that the applicant had advanced a sum of Rs.1/- crore to the insolvent in 12 installments, against execution of promissory notes. The details are as follows:-

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<i>S.No.</i>	<i>Date of realisation on of cheque</i>	<i>Cheque No.</i>	<i>Amount in Rs.</i>	<i>Name of the Bank</i>	<i>Nature of document</i>
1.	22.07.06	740345	3,25,000/-	Dena Bank, Purasawalkam Branch	Pro-note dt.22.07.06
2.	23.08.06	340198	1,00,000/-	Federal Bank, Purasawalkam Branch	
3.	15.11.08	910604	1,75,000/-	Dena Bank, Purasawalkam Branch	Details given in column No.6
4.	06.03.09	910637	2,00,000/-	Dena Bank, Purasawalkam Branch	Pro-note dt. 30.04.09
5.	20.07.09	916777	25,00,000/-	Dena Bank, Purasawalkam	Pro-note dt. 20.07.09



S.No.	Date of realisation on of cheque	Cheque No.	Amount in Rs.	Name of the Bank	Nature of document
				Branch	
6.	01.03.10	935371	1,00,000/-	Dena Bank, Purasawalkam Branch	Pro-note dt. 01.03.10
7.	01.01.11	943754	25,000/-	Dena Bank, Purasawalkam Branch	Joint Pro- note for Rs.1,75,000/ - vide Ch.No.9106 04 and Rs.25,000/- vide Ch.No. 943754
8.	01.04.11	015916	1,00,000/-	IDBI Bank	Pro-note dt. 01.04.11
9.	15.12.10	cash	56,00,000/-		Pro-note dt. 15.12.10
10.	31.12.10	cash	15,00,000/-		Pro-note dt. 31.12.10
11.	05.01.11	cash	10,00,000/-		Pro-note dt. 05.01.11
12.	01.02.11	cash	8,00,000/-		Pro-note dt. 01.02.11
	Total		1,24,25,000/-		

”

5. It is contended that the amount had been given to the insolvent consequent to an offer made to allot a flat measuring 5000 sq.ft., at Rs.10,000/-



per sq.ft., in the tenth floor of an ultra modern residential apartment complex called “Manyal's Samay”. That was to be constructed Door Nos. 33 & 34 College Road, Nungambakkam High Court, Chennai – 600 006. The amount of Rs.1/- crore was given as a portion of part settlement of the amounts due and payable by the insolvent to the applicant.

6. It must be stated that on the application filed by a petitioning creditor, Arjunlal Sunderdas was adjudicated as insolvent by order of Court dated 21.04.2014. The applicant herein claims that he had given a sum of Rs.1/- crore in the aforementioned manner to the insolvent and therefore had preferred claim petition No. 271 of 2014 before the Official Assignee. Since the Official Assignee had rejected the claim petition order dated 05.03.2023, this Application has been filed.

7. In the order of the Official Assignee dated 05.10.2023, it had been stated that xerox copies of three promissory notes had been submitted by the applicant. Since the originals of the three promissory notes were not produced, a notice had issued to the applicant calling for the original promissory notes but



they were not produced.

8. The sworn statement of the applicant had been extracted in the order wherein it had been stated that the promissory notes had been returned back to the insolvent. The Official Assignee had rejected the claim under the three promissory notes for which only xerox copies were produced. They were for a sum of Rs.25,00,000/-, Rs.1,00,000/- and Rs.1,00,000/- respectively. Even before this Court, the original promissory notes had not been produced and therefore, we find no reason to interfere with the order of the Official Assignee in that regard.

9. With respect to the remaining seven promissory notes, the learned Official Assignee has observed that three promissory notes were dated 22.07.2006, 28.08.2006 and 30.04.2009. The date of adjudication of Arjunlal Sunderdas as insolvent was 21.04.2014. The applicant had claimed that the insolvent had been paying interest for the years 2006-2011 and had also given the details. But however, no documents had been produced to reflect that interest had been paid on those promissory notes. Therefore, it had been



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contended by the Official Assignee that the said three promissory notes dated 22.07.2006, 28.08.2006 and 30.04.2009 for Rs.3,25,000/- and Rs.1,00,000/- and Rs.2,00,000/- respectively were barred by limitation.

10. Even before this Court, the applicant had not produced any document to show that interest was paid in the subsequent years by the insolvent. We therefore hold that the Official Assignee had correctly held that the said promissory notes were barred by limitation.

11. With respect to the promissory note dated 15.12.2010 for a sum of Rs.56,00,000/-, the Official Assignee had examined the statement of the claimant that he had received this amount as a gift from his father-in-law. The amount of Rs.56,00,000/- as gift in cash would not be a valid transaction in eye of law. On that very day, the promissory note has also been executed. We uphold the reasoning of the Official Assignee that the entire transaction is doubtful and is colourable. We affirm the rejection of the said claim under the said promissory notes.



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12. With respect to the further promissory notes dated 31.12.2010, 05.01.2011 and 01.02.2011 for Rs.15,00,000/-, Rs.10,00,000/- and Rs.8,00,000/- respectively, the Official Assignee had observed that the said promissory notes were not supported with consideration. No document had been produced to show flow of consideration to the insolvent.

13. Even before this Court, no document has been produced. The same statement as made before the Official Assignee has been repeated before us. We therefore hold that the Official Assignee had correctly rejected the claim.

14. Even otherwise, we also find from the records that the sum of Rs.1/- crore had been allegedly paid for allotment of a flat measuring 5,000 sq.ft., on the 10th floor of a residential apartment complex at Door Nos. 33 and 34, College Road, Nungambakkam High Road, Chennai.



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15. It must be stated that till this date, no apartment had been built in the said address. On the date of the alleged handing over the sum of Rs.1/- crore, not even one brick had been laid for putting up an apartment complex. The consideration was to purchase a flat in the 10th floor when there was not even a single brick laid for construction. The flat was said to measure 5,000 sq.ft., which in reality, not even 1 sq.ft., of land had been constructed. The entire object is unlawful. The consideration is alleged to have been paid for an unlawful object at the whims and fancies of the applicant.

16. We hold that the claim of the applicant is fanciful and false.

17. We find no reason to interfere with the order of the Official Assignee. This Application stands dismissed.

(DR.G.J.J.) & (C.V.K.J.)
.11.2024

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and

C.V.KARTHIKEYAN, J.

vsg

Pre-Delivery Order made in

Application (IP) No. 232 of 2024

IN

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