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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2025

CORAM

**THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

Application (I) No.352 of 2024

in

I.P.No.25 of 2014

Tools and Machine Tools Engg.
No.114, Sidco Aiema Tower,
Ambattur, Chennai 600 058.

..Applicant/2nd respondent/Third
party/Debtor

/versus/

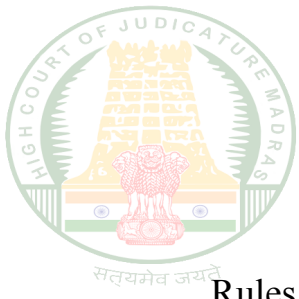
1.The Official Assignee,
High Court, Madras.

..1st Respondent/Applicant

S.Arjunlal Sunderdas(deceased)
23, Anderson Road,
Nungambakkam,
Chennai 600 006.
Respondent/Insolvent

..2nd Respondent/1st

Application has been filed under Order II, Rule 1 of Insolvency



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Rules read with Sections 7 & 8 of the Presidency Towns Insolvency Act, to set aside the exparte order dated 12.07.2019 passed in Appln.No.201 of 2016 in I.P.No.25 of 2014.

For Applicant :Mr.S.R.Raghunathan for
Mr.V.Anilkumar
For Respondents :Mr.K.V.Anantha Krushnan for
Official Assignee

ORDER

In A.No.201 of 2016 in I.P.No.25 of 2014 an exparte decree against the M/s Tools and Machine Tool Engineering, was passed on 12.07.2019 for a sum of Rs.35,25,000/- with interest at the rate of 18% p.a.

2. Being aggrieved, this application to set aside the exparte decree for filed and taken up for consideration. While canvassing the merits of the case for setting aside the exparte decree, it was submitted by the applicant that the insolvent owed him to Mr.Y.Sudharsan Rao, a sum of Rs.60,00,000/- and the said claim been admitted by the party under Claim No.115 of 2020. He also submitted that the insolvent is liable to pay Rs.60,00,000/- to the Proprietary of the petitioner's company. Claim against the petitioner's company, the Proprietary of M/s Tools and Machine Tools Engineering, the



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decree against the petitioner's claim has to be relooked, in view of the money retained of the judgment debtor held by the insolvent,

3. Counter filed by the Official Assignee stating that Sudarsana Rao as a agent and has entitled for the money, he has deposited. It will come around Rs.42 lakhs. Whereas the firm of Sudarsana Rao, Tools and Machine Tools Engineering, which suffers decree for a sum of Rs.35,25,000/- with interest at the rate of 18% p.a., from the date of application till the date of realisation sought for set off and even if it is to be considered under One Time Settlement proposal, he will be entitled only for a sum of Rs.13,57,500/-

4. This Court, after perusing the records, finds that Sudarsana Rao had made an investment with the insolvent between 11.07.2011 and 21.06.2012 on various dates and some of the investments were cash which has no proof. Towards the extent of Rs.60 laksh the investment is proved since they were through the bank transactions. At the same time, there is an evidence to show that Sudarsana Rao through Tools and Machine Tools Engineering owed a sum of Rs.32.25 lakhs to the insolvent, which is even admitted by



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the petitioner, in the affidavit in the application.

5. In such circumstance, if Sudarsana Rao, is to be treated as a person representing M/s Tools and Machine Tools Engineering, the judgment debtor and the claim amount is to be paid to him instead of treating the judgment debtor and Sudarsana Rao has to different entity. When the settling of the account, what amount is due and payable to whom on the date of insolvency, we go by that principle. On the date of insolvency, the insolvent is liable to pay Rs.60 lakhs to Sudarsana Rao and Sudarsana Rao has borrowed money in the name of his firm Tools and M/s Tools and Machine Tools Engineer, is liable to pay Rs.35.25 lakhs.

6. As a result, the insolvent is liable to pay Rs.24,75,000/- which should be the actual claim of Sudarsana Rao. The Official Assignee is distributing 70% of the claim amount to the claimants from out of the proceeds recovered from the debtors of the insolvent. Thus, in this case, Sudarsana Rao will be entitled to get 70% of Rs.24.75 lakhs which is Rs.17,32,500/-.



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7. As a result, this Court while taking note of the amount payable to Sudarsana Rao, Proprietary of Tools and Machine Tools Engineering, the claim of Official Assignee is set off towards the amount payable to Sudarsana Rao. It is suffice to pay a sum of Rs.17,32,500/- towards the claim of Sudarsana Rao.

8. In view of the above order, the Stay of this Court dated 24.04.2024 in respect of the claim Nos.125, 126 and 127 of 2015 which form part of the same group, needs to be vacated. Accordingly, it is vacated. This will enable the claimant D.Ravi in Claim No.125 of 2015; Classic Mould and Diesel (P) Limited in Claim No.127 of 2015; and Ability Engineering Private Limited in Claim No.126 of 2015 in which Sudarson Rao and D.Ravi have interest. As a result, Application No.201 of 2016 is closed as decree satisfied.

9. In view of the order made in A.No.201 of 2016, this application is disposed of.



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(DR.G.J.J.)

(C.V.K.J.)

23-07-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

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To

1. The Official Assignee, High Court,
Madras.

2. S. Arujunlal Sunderdas,
23, Anderson Road,
Nungambakkam, Chennai 600 006.

Dr.G.JAYACHANDRAN,J.
AND
C.V.KARTHIKEYAN,J.



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