O.P.No.424 of 2010

M.M.SUNDRESH, J

This Petition has been filed under Sections 31 1 (a) and 31 1 (aa) of the State Financial Corporation Act, 1951, to determine the liability and direct respondents 2 and 3 herein to pay a sum of Rs.15,51,76,587.76 to the petitioner Corporation with interest at the rate of 15.5% p.a. compounded half yearly from the date of petition till the date of realisation in full.

2.Heard the learned counsel for the petitioner and the learned counsel for the second respondent.

3.Despite service of notice and the names of respondents 1 and 3 having been printed in the cause list, there is no representation on behalf of them.

4.The petitioner is the public financial institution and it sanctioned a short term loan of Rs.100 lakhs to the first respondent by way of sanction order dated 29.03.1996. Respondents 2 and 3 hypothecated the raw materials by deed of hypothecation. The second and third respondents are the guarantors and thus executed a deed of guarantee for the loan.

5.The first respondent committed default in repayment of the dues. Therefore, one of the creditors filed a company petition in C.P.No.200 of 1999 for winding up and the said petition was allowed on 11.08.2006. Subsequently, the first and second respondents approached BIFR for relief and the case was dismissed by order dated 22.06.2006. Since the respondents have not repaid the amount, the present petition is filed.

6.One Mr.P.Mohankumar, Junior Officer of the petitioner Corporation was examined as P.W.1 and marked the following documents viz., Exs.P1 to P8:

> Ex.P1 is the original authorisation letter dated 21.11.2012 issued by the petitioner Corporation in his favour to depose evidence.
>
> Ex.P2 is the office copy of the sanction order dated 29.03.1996 issued by the petitioner Corporation to the first respondent.

Ex.P3 is the original deed of hypothecation dated 29.03.1996 executed by all the three respondents in favour of the petitioner Corporation.

Ex.P4 is the original deed of guarantee dated 29.03.1996 executed by the second and third respondents in favour of the petitioner Corporation.

Ex.P5 is the original deed of agreement dated 29.03.1996 by the first respondent in favour of the petitioner Corporation.

Ex.P6 is the office copy of the notice dated 11.07.2016 issued by the petitioner Corporation to the second respondent and copy has been issued to the third respondent also.

Ex.P7 is the office copy of the legal notice dated 14.02.2007 sent by the petitioner Corporation to all the respondents.

Ex.P8 is the certified copy of statement of accounts of the first respondent.

7.Though the case is pending from the year 2010, no counter affidavit has been filed on behalf of the second respondent. None appears for respondents 1 and 3.

8.The facts, as narrated above, are not in dispute and the status of the respondents is also not in dispute. There is also no dispute regarding the borrowing of the loan and execution of guarantee.

9.Considering the averments made in the petition and on perusing the materials available on record, I am of the opinion that the petitioner is entitled for the relief sought for in the petition.

10.In fine, this petition is ordered and respondents 2 and 3 herein to pay a sum of Rs.15,51,76,587.76 to the petitioner Corporation with interest at the rate of 15.5% p.a. compounded half yearly from the date of petition till the date of realisation in full.

11.07.2016

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M.M.SUNDRESH, J

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