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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 14th DAY OF OCTOBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P. No.607 of 2012

In the matter of State Financial Corporation Act, 1951

The Tamil Nadu Industrial Investment Corporation Ltd.,
rep. by its Branch Manager,
Tambaram Branch,
Plot No.28, 1st Floor, Ayyasamy Street,
Tambaram West, Chennai-600 045. ... Petitioner

-Versus-

1. Thiru P.Selvam, Proprietor,
M/s.Shri Selvamurugan Modern Rice Mill,

2. Thiru P.Subrmaniam,
1 & 2 are at No.94, Kongarai Mambattu Village,
Maduranthagam Taluk, Kancheepuram District. ... Respondents

Original Petition praying that this Hon'ble Court be pleased to pass a judgment and decree against the respondents:-

a) directing the respondents to pay a sum of Rs.43,00,829.50 towards the balance outstanding with further interest at the contractual rate of 18.50% compounded on monthly rests from the date of filing of this petition till date of realization in full;

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b) cost of the petition.

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This Original Petition coming on this day before this court for hearing in the presence of Mr.M.Jaseem Mohamed, advocate for the petitioner herein and Mr.M.Venkataseshan, advocate for the respondents herein and upon reading the petition filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and this court having observed that the document, and the evidence of PW1 & PW2 proved the claim of the petitioner, it is ordered:-

That the respondents herein do pay to the petitioner herein a sum of Rs.1,92,38,366.66 (Rupees one crore ninety two lakhs thirty eight thousand three hundred and sixty six and paise sixty six only) with further interest at the rate of 18.50% compounded on monthly rests on the sum of Rs.43,00,829.50/- (Rupees forty three lakhs eight hundred and twenty nine and paise fifty only) from this date till the date of realisation.

WITNESS THE HON'BLE THIRU AMRESHWAR PRATAP SAHI, THE CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 14th DAY OF OCTOBER 2020.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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KLY-29/09/2021

O.P. No.607 of 2012

ORDER :-

DATED: 14.10.2020

THE HON'BLE MR. JUSTICE
N.SATHISH KUMAR

FOR APPROVAL:07/10/2021

APPROVED ON:07/10/2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.10.2020

CORAM

**THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR**

**O.P.No.607 of 2012**

The Tamilnadu Industrial Investment Corporation Ltd.
rep by its Branch Manager, Tambaram Branch,
Plot No.28, 1st floor, Ayyasamy Street,
Tambaram West, Chennai 600 045. ... Petitioner

Vs.

1. P.Selvam, Proprietor,
   M/s Shri Selvamurugan Modern Rice Mill,
   No.94, Kongarai Mambattu Village,
   Maduranthagam Taluk, Kancheepuram Dist.

2. P.Subramaniam ... Respondents

**Prayer :** Petition filed under Section 3(a) 1(aa) and 32 of the State Financial Corporation Act, 1951 for direction to the respondents to pay a sum of Rs.43,00,829.50 towards the balance outstanding with further interest at the contractual rate of 18.50% compounded on monthly rests from the date of filing of the petition till the date of realization in full.

For Petitioner : Mr.M.J.Jaseem Mohamed

For Respondents : Mr.M.V.Venkataseshan

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**ORDER**

Though sufficient opportunities were given to the respondents, they have not come forward to give evidence and hence, the respondents called absent and Set Exparte. The evidence on the side of the respondents is closed.

2. Heard.

3. This petition has been filed to direct the respondent to pay a sum of Rs. 43,00,829.50 with interest. It is the contention of the petitioner that the first respondent has availed a loan of Rs.16,00,000/- towards construction of factory and to purchase machineries to set up a modern rice mill in the land owned by him. The first respondent executed a deed of Hypothecation dated 18.10.2000 in favour of the petitioner and the 2nd respondent stood as guarantor for the loan availed by the first respondent.

4. After availing the loan, the first respondent had committed default in payment of the installment amounts. As the petitioner company is having right under the deed of hypothecation, they foreclosed the loan on 11.10.2004 and took possession of the property on 04.01.2008. Thereafter,

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at request of the first respondent and on remittance of Rs.45,000/- on 14.01,2008, Rs.70,000/- on 07.02.2008 and Rs.50,000/- on 09.02.2008, the possession of the property was released on 16.02.2008. However, since the post dated cheque for Rs.1,77,000/- given by the first respondent was dishonoured, the petitioner took possession of the primary and collateral security of the assets on 09.07.2008 and 17.07.2008 respectively and brought it on sale on public auction. The primary assets were sold through auction sale for a sum of Rs.17,00,000/- and the possession of the same were given to the bidder on 24.05.2010. The collateral assets were sold for a sum of Rs.7,25,000/- through auction and the possession of the same were given to the bidder 18.11.2011. It is the contention of the petitioner that even after the realization of the above amount, still a sum of Rs.43,00,829.50 is still due to be paid by respondents. Hence this suit.

5. To prove the case of the petitioner, two witnesses were examined as PW1 and PW2 and Ex.P1 to Ex.P20 were marked.

6. On perusal of the documents it reveals that Ex.P1 is the authorization letter given to the PW1 to give evidence and Ex.P2 is the terms and conditions of sanctioned loan, wherein the first respondent by agreeing the terms and condition has signed the document on 19.01.2000

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and that Ex.P3 is the deed of hypothecation executed by the first respondent by hypothecating the machineries in favour of the petitioner. Further, Ex.P4 and Ex.P5 are the deed of guarantee and deed of undertaking dated 18.10.2000 executed by the 2nd respondent for the loan availed by the first respondent. Further, Ex.P6 is the foreclosure notice dated 11.10.2004 sent by the petitioner to the first respondent and Ex.P7 is the acknowledgment card for receipt of the above notice. Ex.P8 is the equitable mortgage created by the respondents in favour of the petitioner by depositing the title deeds. Ex.P9 and Ex.P10 are the loan ledger sheets and acknowledgement card respectively and Ex.P11 is the valuation report of the immovable property dated 31.03.2016. Ex.P12 is the letter given by the respondents for taking possession of the collateral property owned by them. Ex.P13 and Ex.P14 are the auction sale notices and Ex.P15 is the extract of the auction sale proceeding register. Ex.P16 is the deed of sale executed by the petitioner in favour of the successful bidder and Ex.P17 is the letter sent by the petitioner to the respondents dated 26.06.2006 intimating public auction to be conducted on 10.09.2008 and Ex.P18 is the acknowledgement card for receipt of the above letter. Ex.P19 is the authorization letter given to the PW2 to give evidence and Ex.P20is the is the computerised statement of accounts.

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7. The above documents and the evidence of PW1 and PW2 proved the claim of the petitioner. Hence, the petitioner is entitled to receive the amount from the respondents as prayed for in the petition with costs.

Sd./-N.S.K.J.
14/10/2020

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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