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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 19th DAY OF FEBRUARY 2021

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.715 of 2001

***Nabkisan Finance Limited,
(Formerly Known as Agri
Development Finance (Tamilnadu)
Limited, Rep by its Manager
Accounts Mr.D.Dhanasekar**

1-B, Century Plaza,
560-562, Anna Salai,
Teynampet,
Chennai 600 018.

: Plaintiff

*** (Amended as per order
dated 23.09.2020 in A.No.2151/2020)**

Vs

1.M/s S & S Industries & Enterprises Ltd,
Represented by its Managing Director,
Mr.A.R.Santhanakrishnan,
Aarthi Chambers, 2nd Floor,
Anna Salai, Chennai 600 006.

2.N.Kannan,
Vice President (Operations),
S & S Industries & Enterprises Ltd,
Aarthi Chambers, 2nd Floor,
189, Anna Salai, Chennai 600 006.

3.Shri V.S.Narayanan,
Director & Secretary,
S & S Industries & Enterprises Ltd,
Suora Mansion, 158 Arcot Road,
Vadapalani, Chennai 600 026.



4. Shri V.Santhanam,
Manager (Treasury),
S & S Industries & Enterprises Ltd,
Sucra Mansion, 158 Arcot Road,
Vadapalani, Chennai 600 026.

: Defendants

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and decree

a) directing the first, second, third and fourth defendants to pay the plaintiff jointly & severally a sum of Rs.200 lakhs together with interest on the principal sum of Rs.155.63 lakhs at the rate of 20% per annum till date of realisation in all a sum of Rs.355.63 lakhs.

b) direct the defendants to pay costs of the suit.

This suit having been heard on 11.02.2020 in the presence of Mr.A.Abdul Hameed for M/s.AAV Partners, Advocates for the plaintiff herein and the defendants herein, not appearing in person or by advocate and the defendants 2 & 4 herein having been set exparte and upon reading the plaint filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and having stood over for consideration till this date and coming on this day before this court for orders in the presence of said advocates for the parties hereto and this court having observed that the plaintiff has made out a case for a grant of a decree in accordance with the reliefs sought in the suit, **it is ordered and decreed**



That the defendants herein, do pay jointly and severally to the plaintiff herein, a sum of Rs.8,18,78,203/- (Rupees Eight Crore Eighteen Lakhs Seventy Eight Thousand Two Hundred and Three only) with further interest at the rate of 20% per annum on the sum of Rs.1,55,63,000/- (Rupees One Crore Fifty Five Lakhs Sixty Three Thousand only) from this date till the date of realisation.

2. That the plaintiff herein, be and is hereby permitted to file their Bill/Memo of Costs relating to expenses of witnesses; legal fees and expenses; and any other expenses incurred in connection with the legal proceedings, and on filing of the Bill/Memo of costs the taxing officer of this court, shall determine the quantum of the costs.

3. That the defendants herein do pay to the plaintiff herein, the aforesaid costs as and when taxed by the taxing officer of this court and noted in the margin thereof.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
19th DAY OF FEBRUARY 2021.

Sd./-
ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this form



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07.04.2021

C.S.No.715 of 2001

DECREE

DATED: 19.02.2021

THE HON'BLE MR. JUSTICE
C.V.KARTHIKEYAN

FOR APPROVAL: 23/07/2021

APPROVED ON : 26/07/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 11.02.2020

PRONOUNCED ON: 19.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No.715 of 2001

Nabkisan Finance Ltd.,
(Formerly Known as Agri
Development Finance (Tamilnadu)
Limited, Rep. by its Manager
Accounts Mr.D.Dhanasekar
1-B, Century Plaza
560-562, Anna Salai,
Teynampet,
Chennai – 600 018.

... Plaintiff

(Amended as per order dated 23.09.2020
in A.No. 2151/2020)

Vs

1. M/s. S&S Industries & Enterprises Ltd.,
Represented by its Managing Director
Mr.A.R.Santhanakrishnan
Aarthi Chambers, 2nd Floor,
Anna Salai, Chennai – 600 006.

2. N.Kannan

3. Shri. V.S.Narayanan

4. Shri V.Santhanam

.. Defendants

**PRAYER:-**

This Civil Suit is filed under Order XXXVII Rule 1 of the Civil Procedure Code 1908 read with Order VII Rule 1 O.S., Rules, praying for a Judgment and Decree directing the first, second, third and fourth defendants to pay the plaintiff jointly and severally a sum of Rs.200/- lakhs together with interest on the principal sum of Rs.155.63 lakhs at the rate of 20% per annum till date of realisation in all a sum of Rs.355.63 lakhs and also directing the defendants to pay the costs of the suit.

For plaintiff	: Mr. A. Abdul Hameed for M/s. AAV Partners
For D1 & D3	: No appearance (forfeited right to file written statement)
For D2 & D4	: Set exparte on 10.06.2014

JUDGEMENT

The suit had been filed by Nabkisan Finance Limited (Formerly known as Agri Development Finance (Tamilnadu) Limited, a Non Banking Finance Company incorporated under the Indian Companies Act, 1956 against M/s. S&S Industries & Enterprises Ltd., the first defendant and their Vice President N.Kannan, Vice President (Operations) and V.S. Narayanan, Director & Secretary and V.Santhanam, Manager (Treasury) the second to fourth defendants, seeking a Judgment and Decree against the defendants to pay to the plaintiff jointly and severally a sum of Rs.200/- lakhs together



with interest on the principle sum of Rs.155.63 lakhs at the rate of 20% p.a., till the date of realisation, in all sum of Rs.355.63 lakhs and also for costs of the suit.

2.The defendants had been set exparte on 10.06.2014. The said exparte order was set aside in so far as the first and third defendants were concerned by order dated 15.07.2014. However, the first and third defendants did not file the written statement. The jurisdiction of the commercial division was determined on 25.08.2020. The first and third defendants did not participate in the judicial proceedings. The plaintiff was then called upon to adduce evidence.

3.The brief facts of the case are that the first defendant, on 12.05.1997 had placed before the plaintiff a proposal for funding hybrid seed development and productivity for the procurement of sunflower seeds and distribution of the same in the Districts of Tamilnadu and sought Financial Assistance of Rs.6,00,00,000/- (Rupees Two Crores only). The project report was scrutinized and financial assistance of Rs.2,00,00,000/- (Rupees Two Crores only) was extended in the form of Inter Corporate Deposits. The amounts were also paid in installments, namely, Rs.30/- lakhs on 24.12.1997, Rs.20/- Lakhs on 27.12.1997, Rs.67/- lakhs on 12.01.1998, Rs.50/- lakhs on 04.02.1998, Rs.33/- lakhs on 13.03.1998. The

first defendant had also executed promissory notes and also issued



postdated cheques towards discharge of the amount borrowed.

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4. The promissory notes were executed on 15.04.1998 for Rs.67/- lakhs on 12.02.1998, Rs.33/- lakhs on 12.02.1998, Rs.50/- lakhs on 06.05.1998, Rs.30/- lakhs on 23.03.1998, Rs.20/- lakhs on 23.03.1998. The first defendant as stated had also issued postdated cheques. The cheques were issued dated 13.05.1998 for Rs.33/- lakhs, dated 10.06.1998 for Rs.67/- lakhs, dated 21.06.1998 for Rs.30/- lakhs, dated 24.06.1998 for Rs.20/- lakhs, dated 04.08.1998 for Rs.50/- lakhs. It has been stated that interest on the Inter Corporate Deposit of Rs.30/- lakhs was received by the plaintiff till 24.03.1998. Thereafter, the inter corporate deposits were rolled over for further period carrying interest at 20% p.a. On maturity, the interest was received through postdated cheques. The third defendant on behalf of the first defendant had written to the plaintiff on 16.05.1998 requesting further roll over of all the Inter Corporate Deposits for Rs.83/- lakhs and Rs.1.17 crores which were maturing in May and June 1988. A further letter was addressed on 12.06.1998. The plaintiff had, by letter dated 12.06.1998 did not accede to the request of the first defendant and requested immediate payment. The cheques, when presented for payment were dishonoured with the endorsement "funds insufficient". Notices were issued and the plaintiff initiated separate proceedings under Section 138(b) of the Negotiable Instrument Act for prosecuting the defendants. As on the



date of institution of the suit, three Calendar Cases were pending before the XVIII Metropolitan Magistrate Court at Saidapet. The plaintiff then addressed letters to the defendants calling upon them to come forward to discuss and resolve the issue. A meeting was convened on 09.02.2000. The first defendant expressed inability to pay the borrowed amounts. The plaintiff filed a petition under Sections 433 & 434 of the Indian Companies Act 1956 against the first defendant in C.P.No. 185 of 2000. The defendants also wrote a letter dated 16.05.1998 acknowledging liability. It is under these circumstances that the suit had been filed.

5.As stated, the defendants did not participate in the judicial proceeding. The second and fourth defendants had been set exparte. The first and third defendants chose to abstain the judicial proceedings. They did not also file written statement.

6.The plaintiff was then called upon to adduce evidence. Accordingly, Mr.D.Dhanasekar, Manager (Accounts) of the plaintiff was examined as PW-1. He marked Exs. P-1 to P-40. Ex.P-2 was letter dated 12.02.1998 sent by the second defendant to the plaintiff. Exs. P-4, P-6, P-8, P-11 & P-16 were the certified copies of the demand promissory note issues by the defendant. Exs. P-18, P-22, P-25, P-26 & P-30 were the certified true copies of the cheques issued by the defendant. The plaintiff had also filed

as documents the returned memos and also the legal notices issued pursuant



to the dishonour of the said cheques. Exs. P-38 & P-39 were letters sent by the defendants dated 06.04.1999 and 02.09.1999 to the plaintiff.

7.A perusal of the pleadings and documents filed reveal the fact of the loan being extended to the defendants and that the loan still remain unpaid. The defendants had also acknowledged their debt.

8.In view of these facts, I hold that the plaintiff has made out a case for grant of a decree in accordance with the reliefs sought in the suit.

9.The suit is therefore decreed with costs. Costs to be paid in accordance with the amended Section 35 of the Code of Civil Procedure.

10.The Registry is delegated and directed by this Court to determine the costs and the plaintiff is permitted to file their Bill / Memo of Costs relating to expenses of witnesses; legal fees and expenses; and any other expenses incurred in connection with the legal proceedings. On the filing of the Bill/Memo of Costs, the Registry may determine the quantum of the costs.

Sd./-C.V.K.J.
19.02.2021

1. List of Witnesses Examined on the side of the Plaintiff:-

1. P.W.1 – D.Dhanasekaran



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2.

List of Exhibits Marked on the side of the Plaintiff:-

1. Ex.P1 = the original Board Resolution dated 26.08.2020;
2. Ex.P2 = the original letter dated 12.02.1998 sent by the second defendant to the plaintiff;
3. Ex.P3 = the original letter dated 12.02.1998 sent by the second defendant to the plaintiff;
4. Ex.P4 = the certified true copy of the demand promissory note dated 12.02.1998;
5. Ex.P5 = the original letter dated 23.03.1998 sent by the second defendant to the plaintiff;
6. Ex.P6 = the certified true copy of the demand promissory note dated 23.03.1998;
7. Ex.P7 = the original letter dated 23.03.1998 sent by the second defendant to the plaintiff;
8. Ex.P8 = the certified true copy of the demand promissory note dated 23.03.1998;
9. Ex.P9 = the original letter dated 15.04.1998 sent by the second defendant to the plaintiff;
10. Ex.P10 = the original letter dated 15.04.1998 sent by the second defendant to the plaintiff;
11. Ex.P11 = the certified true copy of the demand promissory note dated 15.04.1998;
12. Ex.P12 = the office copy of the letter dated 04.05.1998 sent by the plaintiff to the defendant;
13. Ex.P13 = the original letter dated 05.05.1998 sent by the second defendant to the plaintiff;



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- 14.Ex.P14 = the original letter dated 06.05.1998 sent by the second defendant to the plaintiff;
- 15.Ex.P15= the original letter dated 06.05.1998 sent by the second defendant to the plaintiff;
- 16.Ex.P16 = the certified true copy of the demand promissory note dated 06.05.1998;
- 17.Ex.P17 = the office copy of the letter dated 08.05.1998 sent by the plaintiff to the defendant;
- 18.Ex.P18 = the certified true copy of the cheque dated 13.05.1998;
- 19.Ex.P19 = the certified true copy of the return memo dated 15.05.1998;
- 20.Ex.P20 = the certified true copy of the letter dated 16.05.1998 sent by the third defendant to the plaintiff;
- 21.Ex.P21 = the certified true copy of the legal notice dated 26.05.1998 issued to the defendants;
- 22.Ex.P22 = the certified true copy of the cheque dated 10.06.1998;
- 23.Ex.P23 = the original letter dated 12.06.1998 sent by the defendant to the plaintiff;
- 24.Ex.P24 = the photocopy of the letter dated 12.06.1998 sent by the plaintiff to the defendant;
- 25.Ex.P25 = the certified true copy of the cheque dated 21.06.1998
- 26.Ex.P26 = the certified true copy of the cheque dated 24.06.1998;
- 27.Ex.P27 = the certified true copy of the return memo dated 25.06.1998;



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- 28.Ex.P28 = the certified true copy of the legal notice dated 06.07.1998 issued to the defendants;
- 29.Ex.P29 = the office copy of the letter dated 09.07.1998 sent by the plaintiff to the defendants;
- 30.Ex.P30 = the certified true copy of the cheque dated 04.08.1998.
- 31.Ex.P31 = the certified true copy of the letter dated 25.08.1998 sent by the defendants to the plaintiff;
- 32.Ex.P32= the certified true copy of the return memo dated 14.11.1998.
- 33.Ex.P33 = the office copy of the letter dated 10.11.1998 sent by the plaintiff to the defendant.
- 34.Ex.P34 = the certified true copy of the legal notice dated 18.11.1998 issued to the defendants.
- 35.Ex.P35 = the office copy of the letter dated 04.03.1999 sent by the plaintiff to the defendant;
- 36.Ex.P36 = the certified copy of the letter dated 09.03.1999 sent by the defendants to the plaintiff;
- 37.Ex.P37 = the office copy of the letter dated 23.03.1999 sent by the plaintiff to the defendants through fax.
- 38.Ex.P38 = the original letter dated 06.04.1999 sent by the second defendant to the plaintiff;
- 39.Ex.P39 = the original letter dated 02.09.1999 sent by the defendants to the plaintiff.
- 40.Ex.P40 = the photocopy of the letter dated 10.02.2000 sent by the defendants to the plaintiff.



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3. List of Witnesses Examined on the side of the defendants:-

- Nil-

4. List of Exhibits Marked on the side of the defendant:-

- Nil-

Sd./-C.V.K.J.

19.02.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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