IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 21st DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P. No.328 of 2012

In the matter of State Financial Corporation Act 1951.

Tamil Nadu Industrial Investment
Corporation Limited,
Represented by its Branch Manager
Chennai Branch,
No.692, Anna Salai, Nandanam,
Chennai 600 035.

. . . Petitioner

Versus

Tmt.J.Saraswathy,
No.39/19,
V.V.Koil St.,
Kosapettai,
Chennai 600012.

. . . Respondent

Original Petition praying that this Hon'ble Court be pleased to pass the following orders:-

a) Determining the liability and direct the respondent herein to pay jointly and severally a sum of Rs.93,740/- (Rupees Ninty three thousand seven hundred and forty only) to the petitioner corporation with interest at the rate of 14.50% p.a from the date of the petition to till the date of realization in full.

b) Order the sale of Schedule property herein towards the realisation of the above sum.

c) enforcing the liability of the respondents towards the realisation of the above sum.

This Original Petition coming on this day before this court for hearing in the presence of Mr.Adaikala Arockiaraj, Advocate for the petitioner herein and the respondent herein not appearing in person or by advocate and upon reading the petition filed herein and the other exhibit therein referred to and upon perusing the evidence adduced therein and this Court having observed that the claim has been duly proved by the petitioner,

it is ordered as follows:-

That the respondent herein, do pay to the petitioner herein a sum of Rs.2,25,503/- (Rupees Two Lakhs Twenty Five Thousand Five Hundred and Three only) with further interest at the rate of 14.50% per annum on the sum of Rs.93,740/- (Rupees Ninety Three Thousand Seven Hundred and Forty only) from this day till the date of realisation.

2. That the respondent herein, do pay the afore said amount as mentioned in clause (1) supra, within a period of one month from the date of receipt of a copy of this order.

3. That insofar as the prayers (b), (c) and (d) sought for in this petition are concerned, the same is disallowed, as there is no schedule of property mentioned in the petition.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 21st DAY OF DECEMBER 2021.

Sd./-
ASSISTANT REGISTRAR (O.S-II)

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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

KY

29.12.2021

O.P. No.328 of 2012

ORDER

DATED : 21.12.2021

THE HON'BLE MR. JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 9.2.2022

APPROVED ON: 9.2.2022

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(ORDINARY ORIGINAL CIVIL JURISDICTION)

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

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b) Order the sale of Schedule property herein towards the realisation of the above sum.

c) enforcing the liability of the respondents towards the realisation of the above sum.

This Original Petition coming on this day before this court for hearing the Court made the following orders:-

This petition has been filed under Section 31(1)(a)(aa) and Section 32 of the State Financial Corporation Act, 1951 to determine the liability and direct the respondent herein to pay a sum of Rs.93,740/- to the petitioner-Corporation with interest at the rate of 14.50% p.a from the date of the petition till the date of realization in full.

2. The petitioner is a public financial institution incorporated under the Companies Act to grant loans and advances to industries in the State of Tamil Nadu and Pondicherry on the security of hypothecation and mortgages.

3. The respondent approached the petitioner Corporation to sanction a Working Capital Term Loan (WCTL) for purchase of Bamboos of various types and rolling threads, tape, cloth and paint. The

petitioner-Corporation sanctioned a transport loan of Rs.1,00,000/- on 13.01.2011 towards purchase of raw materials for manufacture of bamboo articles. The petitioner-Corporation issued the loan sanction order to the respondent on 13.01.2011. The respondent herein hypothecated the raw materials with the petitioner for availing the transport loan. The respondent executed a Promissory Note, Deed of Hypothecation and Deed of Guarantee on 13.01.2011 in favour of the petitioner for due re-payment of the loan.

4. The respondent agreed to repay the loan in 36 monthly instalments with interest at the rate of 14.50% per annum. The second instalment was payable on 28.02.2011 and the last instalment fell due on 31.12.2013. The respondent committed default in payment of monthly instalments and the loan account was foreclosed on 29.02.2012. As on 29.02.2012, a sum of Rs.93,740/- is due and payable by the respondent to the petitioner.

5. Before the learned Master, N.Sivakumar, Junior Office-Grade II of the petitioner-Corporation was examined as a witness (P.W1). In his deposition, P.W1 has reiterated the contents of the petition filed in support of O.P.No.328 of 2012. Through P.W1, the following documents were

marked as Exhibits before the learned Master.

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Exhibits	Nature of the document
Ex.P-1	Original authorisation letter dated 20.11.2012 issued by the petitioner authorising him to depose evidence on behalf of the petitioner's Corporation Limited.
Ex.P-2	Deed of Hypothecation dated 13.01.2011 executed by the respondent in favour of petitioner's Corporation Limited.
Ex.P-3	Deed of Guarantee dated 13.01.2011 executed by the respondent in favour of petitioner's Corporation Limited.
Ex.P-4	Original Promissory Note dated 13.01.2011 executed by the respondent in favour of petitioner's Corporation Limited.
Ex.P-5	Terms and conditions dated 13.01.2011.
Ex.P-6	Foreclosure notice dated 29.02.2012 sent by the petitioner's Corporation Limited to the respondent.

6. As seen from the evidence available on record, it is clear that the respondent availed a transport loan for a sum of Rs. 1,00,000/- on 13.01.2011 and has executed a Promissory Note, Deed of Hypothecation and Deed of Guarantee on 13.01.2011 to secure the due repayment of the said transport loan to the petitioner. The respondent has also agreed to re-pay the loan in monthly instalments, ending on 31.12.2013, but has failed to pay the instalments on time and has also committed default in repayment of the loan. The loan account was foreclosed by the petitioner on 29.02.2012. The Hypothecation Deed dated 13.01.2011, Deed of Guarantee dated 13.01.2011, Original Promissory Note dated 13.01.2011, Terms and Conditions of loan dated 13.01.2011 have been marked as Exhibits, viz,

Exs.P2, P3, P4 and P5 respectively. The Foreclosure Notice dated 29.02.2012 has been marked as Ex.P6. All the documents will clearly indicate that the respondent has committed default and is due and payable to the petitioner. The sum claimed in this petition, viz., Rs.93,740/- as on 29.02.2012 together with interest at the rate of 14.50% per annum from the date of petition till the date of realization in full.

7. This Court is of the considered view that the claim has been duly proved by the petitioner. Accordingly, this petition is allowed as prayed for, by determining the liability of the respondent at Rs.93,740/- together with interest at the rate of 14.50% per annum from the date of the petition till the date of realization in full and by directing the respondent to pay the aforementioned amount, within a period of one month from the date of receipt of a copy of this order. Insofar as the prayers (b), (c) and (d) sought for in this petition are concerned, the same is disallowed, as there is no schedule of property mentioned in the petition.

Sd./-A.Q.J
21.12.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)